Vol. VI

TRANSCRIPT OF RECORD

(Pages 2085 to 2488)

Supreme Court of the United States

OCTOBER TERM, 1945

No. 48

UNIVERSAL OIL PRODUCTS COMPANY,
PETITIONER,

vs.

ROOT REFINING COMPANY

No. 64

UNIVERSAL OIL PRODUCTS COMPANY,
PETITIONER,

vs.

ROOT REFINING COMPANY

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITIONS FOR CERTIORARI FILED { MARCH 26, 1945. APRIL 23, 1945.

CERTIORARI GRANTED APRIL 23, 1945.

No. 1080

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IN THE

United States Circuit Court of Appeals

FOR THE THIRD CIRCUIT.

Nos. 5648, 5546.

ROOT REFINING COMPANY,
Defendant-Appellant,

vs.

UNIVERSAL OIL PRODUCTS COMPANY,
Plaintiff-Appellee.

TRANSCRIPT OF RECORD

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6253

The Master: I think so. In fact, I think even without that the argument could be made. I mean to say, you could say, "Here is the opinion of the Court and here is the testimony that was before it", as an argument that the decision was persuasive in this matter. I think the request is proper. I thought there was some arrangement we made previously about the record.

Mr. Harris: That was the record in the Root case.

The Master: Only in the Root case?

Mr. Harris: Yes, that we could refer to any part 6254
of the testimony in the Root case.

The Master: Well, it is understood that either party may refer to testimony——

Mr. von Holst: Briefs, too.

Mr. Harris: And the briefs, that is right.

The Master: ——in the criminal trials for the purpose of showing what was before the Judges who tried those cases, as the basis for whatever statement or decision they rendered.

Mr. Harris: Thank you, sir.

The Master: We will adjourn until two o'clock. 6255

(Recess, 12:20 until 2:00 o'clock P.M.)

6256 *Morgan S. Kaufman—For Amici Curiae—(Recalled)*
Redirect

AFTER RECESS

Present: Counsel as before noted.

Morgan S. Kaufman, recalled.

Redirect Examination

6257 Mr. von Holst: May I proceed, Master?
The Master: Yes, go right aread.

By Mr. von Holst:

Q. You are the same Morgan S. Kaufman who has heretofore been sworn and testified in these proceedings? A. There has been no change since that time.

Q. You have furnished Mr. O'Mara with a list of cases in which you appeared in the Circuit Court of Appeals for the Third Circuit, have you not, referred to in his letter a copy of which I show you? A. Those are the ones that I appeared in or was interested in prior to the time that Judge Davis
6258 was on the bench. These run back for thirty years.

Q. And these cases listed in this letter that I show you of January 14, 1943, from Mr. O'Mara to Mr. White, together with the cases which you testified to in your prior testimony here, would comprise, would they not, all the cases—— A. Well, that I couldn't say. The record would be the best evidence. I gave you what I thought—what I had, rather, in my possession, or what I could think of at the time. I don't have a complete set of records.

Q. Well, in so far as you were able to give us that information—— A. I gave you all I had.

Q. —you gave us all that you had? A. That is correct.

Q. And that was in your former testimony, and then you supplemented it with these cases that you brought to Mr. O'Mara's attention, is that right? A. No, I don't think that is a correct statement. I think I gave you what I remembered at the time of all cases,——

Q. Yes. A. —and these cases that you are showing me now are cases that I appeared in either as attorney or as one of counsel, or which my firm was interested in, for the last thirty years. I think most of them there are before Judge Davis ever sat on the bench. I think Judge Gray was on the bench. I remember when I tried some—when I argued some of those cases. 6260

Q. Well, may I put the question this way: in so far as you are able to, have you given us all the cases that you had in the Third Circuit during the time that you have been admitted to the Court of Appeals here—I mean, in the Court of Appeals for the Third Circuit? A. I think you have substantially the amount—the number. There may be one or two cases left out.

Q. Yes. A. But I would say substantially you have it there, and compared with the records I think you will find that they are substantially correct. There may be one or two left out, I don't know. 6261

Q. Will you please state whether you personally were in this case of In Re Steel Furniture Company, 18 Fed. (2d) 490? A. What year was that?

Mr. Harris: What case was that?

Mr. von Holst: In Re Steel Furniture Co., 18 Fed. (2d) 490.

The Witness: I remember the name of the company.

Mr. Poore: The opinion was February 15, 1927.

The Witness: 16 years ago—well, that is a hard thing to remember. I think my associate, Mr. J. Julius Levy, was my partner at that time, and I think he

6262 argued the case, and I think we lost the case, I think that is a case that Judge Davis wrote the opinion in, —or we won it, I forget just what, either Judge Davis or——

Mr. von Holst: Well, the reported case shows opinion——

The Witness: Who filed the opinion?

Mr. von Holst: —by Judge Woolley.

The Witness: Well,——

6263 Mr. von Holst: And Buffington and Davis concurring.

The Witness: Well, the record is the best evidence. My memory doesn't quite——

By. Mr. von Holst:

Q. The reason I asked you about it, Mr. Kaufman, is that the reported case does not show your name. It shows that the opinion was affirming an order of a bankruptcy referee disallowing the claim of American Wholesale Corporation, a creditor, who was represented by J. Julius Levy and Frank R. S. Kaplan. A. Well, that is right; Kaplan was from Pittsburgh, and Julius Levy was my law partner.

6264 Q. And you personally were not in the case, then? A. Well, I naturally wouldn't be interested—I would be interested, but I can't—it was a case in which some other counsel argued the case.

Q. Now, I want to ask you about the case of Lackawanna Foundry versus Goodman, 29 Fed. (2d) 290. A. Yes.

Q. And the report of that case in 19 Fed. (2d) 989. A. What year was that?

Q. The opinion was written on—oh, I am wrong on the citation. Change that, please, to 25 Fed. (2d) 290, opinion February 24, 1928, by Judge Woolley, Judges Buffington and Davis concurring, and reversing an order in bankruptcy which had allowed a claim in favor of a creditor repre-

sented by Philip V. Mattes, Lee P. Stark and J. Julius Levy, and your name is not mentioned in the reporter. A. What is your question?

Q. Were you personally in that case? A. Well, the firm name was Kaufman, Mattes and Levy, and whether—they had some practice about putting individual names down, I know the case came into the office there, you asked me for a list of cases that our firm was interested in, or myself, so he gave them to you there. I know all about that case. The case was brought in our office. 6266

Q. The other case is Coon v. Wilson, 41 Fed. (2d) 648, decided on May 28, 1930, by Judge Buffington, Judges Woolley and Schoonmaker concurring, affirming a judgment for the defendant in an action of assumpsit for money had and received by a lawyer, and the report shows the plaintiff was represented by George Wharton Pepper and J. Julius Levy and Philip V. Mattes. Would your answer be the same as to that case? A. Yes, that case came into the office and I don't know whether—I think we lost that case in the court below and we came down here and retained Senator Pepper to argue the case, and he didn't fare any better than we did, so we lost that.

Q. Well, in those cases that I have interrogated you about, Mr. Kaufman, will you state whether you did any work in them or whether it was—— A. I can't—— 6267

Q. —handled by your partner? A. I can't recall now, it is a period of fifteen years ago, isn't it, ten, twelve, fifteen years ago?

Q. I gave you the dates each time? A. I don't recall.

Q. The last one I want to ask you about is Cupano v. Lackawanna & Wyoming Valley Railroad Company. Now, that is not reported, as far as we are able to ascertain, Mr. Kaufman. A. It isn't reported?

Q. Yes. Do you know what year it was decided in? A. Well, John T. Lenahan was on the other side, and he has

6268 *Morgan S. Kaufman—For Amici Curiae—(Recalled)—Redirect*

been dead a good many years—in Wilkes Barre, John T. Lenahan, I think the Master will remember him, from Wilkes Barre.

The Master: Lenahan?

The Witness: Lenahan, John T. Lenahan. There were two brothers, Jim Lenahan and John Lenahan. That is going back twenty-five years, I think. We got a verdict in the Federal Court, a fellow had his leg taken off, he attempted to, or did get on a car, his con-
6269 tention was that it started after he got on, the company's contention was that he ran after the car, however, it is a question for the jury, he got a small verdict, and Lenahan argued the case for the defendant company, I argued for the plaintiff, and I think Judge Gray sat in the case, Judge Gray.

By Mr. von Holst:

Q. Do you remember the year, or about the year? A. Oh, it is twenty-five, thirty years ago, I can't recall. It is going back in ancient history, now.

Q. Mr. Kaufman, since your last appearance in these proceedings a representative of our firm and a represenia-
6270 tive of Mr. Harris' firm and a representative of the Master's office have been to the office of the United States Attorney in New York, went through the records there, to try to find some of the documents which are supposed to have been turned over to the United States Attorney, and it is concerning some of these and because of our failure to find anything there that shows payments of Stokley on his loan from you, ten thousand dollar loan, other than the six hundred dollar check, cancelled check, which was in May 15th, 1939, and because of the failure to find the letters that you referred to at page 1944 [R. 951-2] of your testimony last time, where you stated that there were dozens of letters from Stokley to Kaufman about the loan, and we found only two,

that we wanted to interrogate you further. I just wanted to make that preliminary explanation, and, if I might, go to the subpoena and ask you whether you found or have with you any of the documents responding to paragraph 1 of the subpoena.

I should say further that it is my understanding, although I did not go to the United States Attorney's office myself, that Mr. Lauritano stated that your brother, Mr. David Kaufman, had taken some documents from the United States Attorney's office in recent months, and I would like 6272
to ask you whether you know about that, that he has. A. Yes, he had a few books of accounts. He wasn't interested in the case in any way, shape, manner or form.

Q. I understand that. A. They tried to implicate him and draw him into the case, but they never got anywhere.

Q. My only inquiry is as to whether documents which are not in your possession—— A. I know all about the documents he had. They had nothing to do with this case at all, nothing more than the sun has to do with the moon.

Q. You mean the documents that were turned back to him? A. Exactly, personal books and a number of things that he had around there.

Q. Well, now, coming back to my other question, have 6273
you any of the correspondence, records, data, books or memoranda of account, and so forth, or copies, referred to in paragraph 1 of this last subpoena, showing or pertaining in any way to any payments to or for the account of or receipt by you of any moneys, securities, valuables or commodities, as repayment in whole or in part, or as the payment of interest by Charles L. Stokley on the sum of ten thousand dollars paid by you to the Town of Mount Dora on or about November 25, 1935? A. Have I got any of them——

Q. Yes. A. —in my possession, is that your question?

Q. Yes. A. I have.

6274 *Morgan S. Kaufman—For Amici Curiae—(Recalled)—Redirect.*

Q. Will you produce them, Mr. Kaufman? A. I will. I might say, before answering that question, that there were dozens of letters not given to the District, United States District Court, or, I mean, to the Attorney, United States District Attorney's office, because they grabbed everything that they could find, but evidently they weren't looking for —didn't get their hands on the Stokley file, so the Stokley file was presented into the District Court of the United States at the time I was tried, either the first or second case, I think it was during the first hearing, had a bunch of them,
6275 I remember Mr. Ginsburg who represented me at the time said to the Judge, "Do you want these to go in to the jury?", or something to that effect, he waved a whole bunch of them there, he had maybe twenty-five or thirty letters. I have never seen them since then. I don't know where any of my papers are. In fact, I have never seen the mortgage, I have never seen the deeds, the insurance papers, my certified check, I haven't seen any of it. It was all left there. I haven't bothered with anything, no more than I bothered about the United States District Attorney's office down there in New York. I have been handicapped, but I wouldn't even go to the trouble of asking them to give it back to me.

6276 Q. Have you—— A. They can do whatever they like.

Q. You haven't asked Mr. Ginsburg to give you those letters back? A. I haven't asked for anything—Ginsburg turned over to me what he thought belonged to me at the time he severed his connection with the case, so there were hundreds of them, I think there were fifty letters, if I am not mistaken, I don't know where they are, I don't pay any attention to those letters, these are matters for a secretary to look after, certainly not my affairs.

Now, you want to see what letters I have with reference to the payment of the money—I have no letters with reference to payment of money excepting the checks which he sent to me, and I haven't the original checks, but I have the

date here. That is taken from my books of original entry.

The only book we have is the ledger which begins in 1939—or '38, I am not sure, but I think it is '38 or '39, and this is a duplicate of the original which was taken off of my books yesterday by Miss McMahon, my secretary. Here is an exact copy of it.

Here is what I find, that on the—on July 7th, 1938, I received a check for six hundred dollars and deposited it in the usual way in the Bankers Trust Company, New York City, where I had an office at the time.

6278

Q. What date was that, Mr. Kaufman? A. I deposited that check on July 7th, 1938, I think it is, if I am not mistaken.

I have another check here dated April 17th, 1941, for four hundred dollars, deposited in the usual way, in the Bankers Trust Company, to my account, April 17th, received April 7th—I don't understand April 17th, received April 7th—oh, I guess that is when they got the money back from the bank, at Traverse, whatever the name——

Mr. Harris: Tavares.

A. (Continued) Tavares—whatever the name of it is there.

6279

Now, my ledger, you will find my ledger for the smaller—in the year prior to 1938 with the United States Attorney's office. You have it there, haven't you, or did you get a copy of it?

Mr. von Holst: No, sir.

The Witness: Well, you have it there.

Mr. von Holst: We couldn't find it there.

The Witness: Well, it is there, it is there. When I tell you it is there, it is there, couldn't be any other place, because we have—my secretary has a receipt for that ledger, because we tried to get it back on several times, to find out what people owed us, but, no, they couldn't do anything.

6280 *Colloquy*

Mr. Harris: Well, Mr. White, here is a list of books and records turned over to United States Attorney by Morgan S. Kaufman March 11, 1940, and I notice items 29 and 30, referred to as blue bound book marked—one of them—"Double-entry Ledger" for period January 1, 1936, to December 31, 1936, and the other, "Daily Cash Receipts—1936", for period January 1 to December 31st, 1936.

The Witness: That is it.

Mr. Harris: Now, those seem to have been marked in evidence as Government's Exhibits numbers 55 and

6281 56.

Mr. O'Mara: Grand Jury exhibits.

Mr. Harris: Oh, Grand Jury Exhibits Nos. 55 and 56.

The Witness: They had them in before the Grand Jury.

Mr. Harris: I haven't looked at this list. There may be others. There are numerous other books.

I would like to have them marked in evidence, if I may.

Mr. McCullough: That came from Mr. White's office.

6282 Mr. Harris: Mr. White, you furnished us with that photostat of the receipt by the Government. May we mark that as Universal Exhibit 20?

Mr. von Holst: May I see that?

Mr. Harris: Now, you got that, Mr. von Holst, yourself.

Mr. von Holst: Is it known who drew up the receipt?

Mr. McCullough: It was sent to us by Mr. White's office after Mr. Neuman and Mr. Laskoff had been to the District Attorney's office, and Mr. Neuman selected papers, and I presume when we got the list of photostats or the set of photostats that was what Mr. Neuman took out. I wasn't there.

Morgan S. Kaufman—For Amici Curiae—(Recalled)—Redirect 6283

Mr. O'Mara: I will make a statement on the record about that, because I can perhaps shed a little light on it. I was present at the District Attorney's office in New York, with Mrs. West and Mr. Neuman, at the beginning of the examination of the papers last month, I stayed for perhaps two or three hours, and this list was furnished by Mr. Lauritano, taken from the files of the United States Attorney, and handed to us by Mr. Lauritano. That is all I know about it. It was apparently a list made up by somebody in the United States Attorney's office of 6284
the documents and papers which had been turned over to the United States Attorney by Mr. Kaufman, and those which had been used as exhibits in the presentation of the matter before the Grand Jury were so marked with exhibit numbers.

(Photostatic copy of list entitled "Books and Records turned over to U. S. Attorney by Morgan S. Kaufman, Mar. 11, 1940" was marked Universal Exhibit 20.)

By Mr. von Holst:

Q. Coming back to this first sheet that you gave me, Mr. 6285
Kaufman,—— A. Yes, sir.

Q. —which you say is a duplicate copy of a ledger book that you have,—— A. Correct, that ledger book was started, I think, in 1939 or '40—it must have been in '39. Which year is that, 1939?

Q. Yes. A. What first entry is that, January?

Q. June 22nd. A. Started January 1st, 1939.

Q. This sheet, or the sheet from which this is copied, is the only sheet in that ledger book—— A. In the entire book.

Q. —which contains any entries—— A. I would be very glad to bring the record up here and let the Master look at it.

6286 *Morgan S. Kaufman—For Amici Curiae—(Recalled)—Redirect*

Q. It is perfectly all right, I am just asking you,—— A. Yes, sir.

Q. —there is no other sheet in this book—— A. No.

Q. —in connection with this loan at all? A. No, that is the only one in connection with C. L. Stokley in any way, shape, manner or form.

By Mr. Harris:

Q. How about the other ledgers? A. The other ledgers contain the other payments. I don't have them there.

6287 Mr. von Holst: I will take one thing at a time, if I may. I should like to offer in evidence this sheet which Mr. Kaufman has presented as a copy of the ledger sheet, as Amici Exhibit 218.

The Master: May I see that?

Mr. von Holst: Yes, sir.

(Duplicate copy of ledger sheet for C. L. Stokley, produced by Morgan S. Kaufman, was marked Amici Exhibit 218.)

Mr. Harris: Are you going to offer those deposit slips from the Guaranty Trust Company?

6288 Mr. von Holst: Yes. Can I get photostats made of these?

The Witness: ~~You can have the originals. I don't~~ want them. You can make photostats or anything else you want.

The Master: The first entry here appears to be June 22nd, 1939. I thought Mr. Kaufman said he had some entry of 1938.

The Witness: I did, but they are in the other books —no entry of the Stokley matter. There is only one other entry in the Stokley matter, in other books.

By the Master:

Q. And what entry is that? A. There is one other entry

Q. Yes. A. And that would be an entry back several years, 1936, I think there was a payment made.

By Mr. von Holst:

Q. Two hundred dollars? A. Something of that sort. That is as I can recall it.

Q. Now, Mr. Kaufman, you also have handed me two slips of the Bankers Trust Company, New York City. The first of these shows a deposit of the sum of six hundred dollars, payable to Bank of Tavares, Tavares, Florida, and 6290
that the deposit was received on June 23, 1939, is that correct? A. Whatever the date shows, I don't know the—I assume that is correct.

Q. Well, I think when you first handed it to me you said 38, and this stamp up here in the corner has been blotted in some way, but I call your attention to the fact that down here it says, "Your deposit received: 6/23/39". A. That is right, 39 is correct.

Q. And that corresponds with the cancelled check which is already in evidence here? A. Yes, sir,—cancelled check, do you have a check of that kind?

Q. Yes, six hundred dollars. A. It is wasting a lot of valuable time if you have the check. 6291

The Master: That also corresponds to the entry on that ledger sheet, doesn't it?

Mr. von Holst: Yes, sir.

Mr. Harris: Yes, substantially.

Mr. von Holst: I would like to mark that in evidence.

(Charge slip of Bankers Trust Company, New York, N. Y., dated July 7, 1939, to Mr. Morgan S. Kaufman, on deposit of $600 payable at Bank of Tavares, Tavares, Florida, was marked Amici Exhibit 219.)

6292 *Morgan S. Kaufman—For Amici Curiae—(Recalled)—Redirect*

The Witness: They send them out for collection. I think they charge fifty or seventy-five cents for collecting.

Mr. von Holst: Foreign bank.

The Witness: Foreign bank.

By Mr. von Holst:

Q. And the second of these deposit slips of the Bankers Trust Company that you handed me is this one for $400.00,
6293 also payable at the Bank of Tavares, showing the deposit on April 7, 1941, is that correct? A. That is right.

Mr. von Holst: I ask that that be marked Amici Exhibit 220.

The Witness: I think my record shows that. I am not sure.

(Charge slip of Bankers Trust Company, New York, N. Y., dated April 7, 1941, to Mr. Morgan S. Kaufman, on deposit of $400 payable at Bank of Tavares, Tavares, Florida, was marked Amici Exhibit 220.)

6294 *By Mr. von Holst:*

Q. And these two deposit slips, Amici Exhibits 219 and 220, are the only ones that you have, is that right? A. The only ones I have in my possession. I don't as a rule keep deposit slips. This is really not a deposit slip, it is a deposit sent out for collection. You simply deposit the check and they forward it to the bank on which the check is drawn, if it is out of the State, and then give you credit for it in the regular deposit slip or in your book when it is finally consummated, the collection is completed.

Q. Well, these two, Amici Exhibits 219 and 220, and Amici Exhibit 218, are the documents that you have brought

in responding to paragraph 1 of the subpoena that I read to you? A. I assume that is correct.

Q. Mr. Kaufman, you referred to a payment which was made to you by Stokley in 1936? A. I said my—my record would show that, in 19——

Q. That record that you refer to is your ledger? A. Yes, sir.

Q. How can we identify that? What would be a description of it? Is that a double entry or a single entry ledger for that year? A. That is a very simple little ledger. 6296
It isn't as elaborate as this last ledger I brought up. It was a little, simple ledger. It isn't as elaborate as this last ledger I brought up. It was a little, simple ledger that I carried my accounts in, and it is marked "Ledger" on the outside, I think the book cost either ten cents or a quarter, and that is how you can identify it.

Q. Does it have your name on it? A. Well, that I don't remember. It may have.

Q. And it is—— A. I doubt it.

Q. —for what year? A. Well, Im sure 1936 is in there. Whether '35 or '37 is in, I don't know.

Q. You don't know what year begins it? A. I think it begins in '35 or '6, I really don't know. 6297

Mr. von Holst: I would like to ask Mr. O'Mara and Mr. Harris whether their information corresponds with mine. I am sorry that Mr. Neuman isn't with us, but he couldn't attend this time on account of his engagement with Mr. Thiess on the compiling of a brief that had to be gotten out. But my information is that a careful search was made for that ledger and that it was not found in the United States Attorney's office.

Mr. Harris: I don't know. It wasn't so reported to me.

Mr. O'Mara: I can't say anything from personal knowledge because I was only there for a short time at the beginning of the examination.

Mr. McCullough: The only information I have, Mr. von Holst, is that Mr. Neuman was given access to the District Attorney's office and he selected documents—now, I got no report as to what documents they saw, but that he selected certain documents which he thought were material.

6299 Mr. von Holst: Yes.

Mr. McCullough: And we were to be furnished copies of them.

Mr. von Holst: Well, I suppose it will be necessary for Mr. Neuman to take the stand and testify to what he found and did not find, but he has informed me that he made a careful search for that ledger——

The Master: Is Mrs. West in?

Mr. von Holst: —and was unable to find it.

The Master: Maybe Mrs. West could throw some light on it.

By Mr. von Holst:

6300 Q. Have you with you any reference of any kind to that two hundred dollar payment that you say was in that ledger for 1936? A. Well, I have, but I prefer that you get it officially. I wouldn't trust my memory, now, since you are very anxious about records, I think you better get it out of the records.

Q. Well, did you make a copy of that record? A. I did not.

(Discussion off the record.)

By Mr. von Holst:

Q. You understand my difficulty, Mr. Kaufman. We couldn't find the ledger. That is why I am asking you if you

have anything else that would throw any light on it. A. There are a lot of things, I can't find, they grabbed everything in sight, I told you once before, it was something like a Gestapo system, living in Germany, they grab everything and say, "Go and whistle for it", they walk in and grab everything in sight.

Q. Was there just this one ledger, Mr. Kaufman, or was there more than one? A. You will find—with reference to the Stokley matter?

Q. Yes. A. One ledger.

6302

Q. There is only one ledger that has any reference to the Stokley matter? A. There may be a day book, little day book, I didn't keep the records, I don't know anything about bookkeeping, but I assume what you will find is a record of the day that we received something from him and it is posted in the ledger, the same as this was done, only it is a small, little ledger instead of a large one. That is the way you will find it, no doubt.

Q. You say there is a day book? A. Day book and a ledger.

Q. Is it your best recollection that apart from those two payments that you showed this morning, the one for six hundred in 1939 and one for four hundred in 1941—was it?

6303

A. I think so, yes.

Q. Apart from those two, the only previous payment was this two hundred dollar payment? A. Yes, sir, I think so. I think that is what you will find.

Q. Well, that is your best recollection, is it? A. That is correct.

Q. Could you help me at all with a description of that day book, so I would know what to look for? A. Well, I tried to tell you, it is an account——

Q. Well, you described the ledger before. A. Well, it is the same thing as the ledger, these little ten or twenty-five cent books they get in, it is either gray bound or blue bound, I don't know what they are.

6304 Q. And was it marked "day book" on the outside? A. That I couldn't tell you, it has been so long since I have seen it. In fact, I couldn't tell you what these are marked.

Q. Mr. Kaufman, I would like to show you this exhibit, Universal Exhibit 20, which is entitled "Books and Records turned over to U. S. Attorney by Morgan S. Kaufman, Mar. 11, 1940". Do you know that writing, or do you know anything about who compiled that thing? A. Never saw it before in my life.

6305 Q. Well, let me ask you whether number 4 here is the ledger that you have been describing to me. It says "General Ledger of Morgan S. Kaufman—containing loose leaf sheets, some of which cover period Jan. 1, 1937 to Jan. 29, 1940".

Mr. Harris: Well, look at the last——

By Mr. von Holst:

Q. Then it says Grand Jury Exhibit number 54. A. No.

Q. That is nothing that you have been talking about?

Mr. Harris: Look at the last, next to the last.

Mr. von Holst: All right, Mr. Harris, I was going
6306 to go through all those that have any bearing upon it.

By Mr. von Holst:

Q. 5 says "Blue Loose-leaf binder, first page of which is marked 'Morgan S. Kaufman Cash Receipts' covering period between July 1939 and Feb. 20, 1940". A. No, this doesn't go as far as that. This is just the ledger for—I think the highest it goes is for '37, if I am not mistaken, '35, '6 and '7 or '6 and '7.

Q. Well, might I trouble you to glance through that and see whether there is anything there that corresponds to what you have told me about?

Morgan S. Kaufman—For Amici Curiae—(Recalled)—Redirect 6307

(Universal Exhibit 20 was shown to the witness.)

A. Well, that I couldn't tell you, either. The nearest thing I see on there would be number 29, blue bound book marked double-entry ledger for period Jan. 1st, '36 to December 31, '36, Grand Jury Exhibit 55; and the day book looks as if this number 30, blue bound book marked Daily Cash Receipts 1936 for period January 1st, '36 to December 31, '36. Grand Jury Exhibit 56, the last—in my judgment those are the two books that you will find. 6308

By Mr. von Holst:

Q. You are certain that those have not been returned to you at all, Mr. Kaufman? A. I am positive. The only book that was ever returned to me is one I got down on my bended knees to the United States Attorney's office and requested that I have to make up my income tax for 1940, and I begged for my ledger—or '41, I forget what it was—and I said, "Now, give me a photostat, I will pay for it." No, they wouldn't do that, they kept me there until almost, I think it was within a few days of the time that I had to file my income tax for the year. That is how serious it got to be. 6309 That is the only book that was ever returned to me that I can recall just now.

By the Master:

Q. Did you say that you had an independent recollection of a payment made in '36, or did you merely have a recollection that it was so entered in the ledger? A. It was in the ledger.

Q. You don't have any independent recollection of it? A. I have an independent recollection that the payment was made, and I am sure that it is in the ledger, because any

6310 moneys I receive, the young lady receives, she just puts it right into the cash book and ledger. I don't have anything to do with the payments, she does all of that.

Q. You don't know the date? A. Well, wait a minute, you want the date of the—what date do you want, the date of the——

Q. The payment—— A. Of the payment?

Q. —you spoke of, yes.

Mr. von Holst: The two hundred dollar payment.

The Witness: The two hundred dollar payment

6311 was made July 21st.

By the Master:

Q. What year? A. Now, wait a minute—July 21, 1936, two hundred dollars.

Q. Have you got a—— A. Check was deposited in the Public National Bank of New York City for two hundred dollars.

Q. Where did you get that from, Mr. Kaufman? A. My secretary gave me that. She evidently got it at the time we were having the first trial here from some records that she selected. She gave me that the other day.

6312 Q. Well, where did she get it from? A. That I couldn't tell you.

Q. I wondered if she had that—— A. She hasn't got the ledger. I asked, I inquired particularly, she hasn't the ledger.

Q. There must have been some other record. She could hardly have remembered it. A. No, she didn't remember it, she had a record.

Q. Yes. A. Copied it from a—what-do-you-call-it?—from the record.

Q. Yes, she must have had it. A. I think that the record that she had was from some questions they asked me

while I was in before the Grand Jury and I checked it up at the time, and you will find that in the record as I have quoted it to you, a deposit made in the Public National Bank, as I have stated to you—can't be otherwise.

By Mr. von Holst:

Q. Isn't it a fact, Mr. Kaufman, that in your income tax return for 1937-38 you itemized the amounts which you had received as interest during those years and named the persons from whom you had received that interest? A. I 6314
couldn't say unless you showed me my income tax reports.

Q. Would you produce them? A. I haven't them, they have them. They have my income tax reports. It shows it right there (indicating). And the income tax report wouldn't necessarily show every item of moneys received. That would have to be by checking with your own records.

Q. Well, in any event, this two hundred dollars which is in that, you say is in that ledger, is the only one prior to the 1939 payment of six hundred dollars? A. That is my understanding.

Q. And that was a payment on interest? A. I put it interest, it was two hundred dollars sent to me, I assumed 6315
that that was interest.

By the Master:

Q. Was it paid by check? A. Paid by check.

Q. Stokley's check? A. Stokley's check—well, I say—I am quite sure it was a Stokley check.

Mr. Behrens: You so testified at the last hearing,——

The Witness: That is correct.

Mr. Behrens: —that it was a Stokley check.

6316 *Colloquy*

The Witness: That is correct, I am quite sure it was a Stokley check.

(Discussion off the record.)

Mr. von Holst: May I put this question to Mrs. West on the record, then,—

The Master: She was acting as a representative of the Master, so I suppose we don't need to have her sworn.

Mr. Harris: Her statement is as good as her testimony.

6317 Mr. von Holst: —as to whether Mrs. West knows of her personal knowledge that Mr. Neuman on behalf of the Amici Curiae in these proceedings, on the occasion when he and a representative of Mr. Harris' office and Mrs. West were in the office of the United States Attorney in New York——

Mr. Harris: Recently.

Mr. von Holst: —recently, looking for certain papers, whether she knows that Mr. Neuman looked particularly for the Kaufman ledger which is—number 29, is it?

Mrs. West: 29.

Mr. Harris: And the cash book, number 30.

6318 Mr. von Holst: And the cash book, number 30.

Mr. Harris: On Universal Exhibit——

Mr. von Holst: On Universal Exhibit 20.

Mrs. West: I know that.

Mr. von Holst: That he did make such a search?

Mrs. West: That he did make such a search.

Mr. von Holst: And that he couldn't find either one?

Mrs. West: And he couldn't find either one.

Mr. Harris: He did not find either one.

Mrs. West: He did not find either one, and I joined in that search, going through, because those books would have been reasonably simple to locate.

Mr. Harris: Where did you search, just what was handed to you——

Mrs. West: No.

Mr. Harris: —by the United States Attorney?

Mrs. West: I searched in the files, they allowed us access to three filing cabinets there with the material in it, and they were all pretty full, but you could tell by casual glance at a folder—this is speaking of my search—whether or not a thing like a ledger was in it.

Mr. Harris: Even if it were a small—— 6320

Mrs. West: Any kind of bound book, yes.

Mr. Harris: Even though it were small?

Mrs. West: Even though it were small. Most bound books were together in the back part of the drawers, but those weren't among those.

Mr. von Holst: I would like to ask, also, how long did the search last?

Mr. Harris: The search?

Mr. von Holst: That is to say, how long were Mr. Neuman and Mr. Laskoff, how long were they conducting the search?

Mr. Harris: For these ledgers?

Mr. von Holst: Yes, well, for—— 6321

Mrs. West: For the ledgers alone, I couldn't say.

Mr. von Holst: No, I mean for the whole time.

Mrs. West: For the whole time, two full days.

Mr. Harris: Well, they weren't——

Mrs. West: Up to 4:30, the second day.

Mr. Harris: They weren't looking for those ledgers all that time?

Mrs. West: They weren't looking for those ledgers all that time, but we weren't looking for them hurriedly, either, it wasn't just at the last minute.

Mr. Harris: You are convinced they are not in the files to which access was given you?

Mrs. West: Yes, I am.

Mr. Harris: And you recall discussing it, or Mr. Neuman discussing it with Mr. Lauritano?

Mrs. West: Yes, I do.

Mr. Harris: And what did Mr. Lauritano say?

Mrs. West: I don't feel that I can report on that.

Mr. Harris: You mean you don't recall it?

Mrs. West: As a matter of fact—I don't recall clearly enough what he said about which particular things. I didn't see anything, all I did was hear him
6323 read off of papers that he was thumbing through.

Mr. von Holst: Thank you very much.

Mr. Harris: We are much obliged, Mrs. West.

Mr. von Holst: Maybe we can shorten this.

By Mr. von Holst:

Q. So far as the remaining items called for in the subpoena, have you produced everything which responds to any paragraph? A. I found nothing in the subpoena that answers your request there—I found nothing in my records which answers your request, with the exception of a couple of letters which you asked for.

6324 Q. May I see the letters? A. You may. Here is a photostat of a letter, the photostat. The original is in the—I think in the United States Attorney's office. I don't know where they are, they have been so many places I don't know where.

Here is another letter, another photostat of some kind of a letter, I don't know.

By Mr. Harris:

Q. Those were gotten from the United States Attorney? A. I think so.

6325

Mr. Harris: We got those and put them in.

Mr. von Holst: Mr. Kaufman, both these letters April 7, 1937 and May 11, 1938, were put in evidence this morning.

The Witness: That I don't know.

Mr. von Holst: Well, I am just informing you, so I am returning to you these two letters.

That is satisfactory, Mr. Harris?

Mr. Harris: Certainly.

The Witness: Here is some kind of a letter here, dated January 4th, either '40 or '41—'41.

6326

Here is some other letter, I don't know, I brought the entire file, whatever I had, here, and you are welcome to them to your heart's content, whatever is in there you can have. That is the only files I have in connection with the Stokley matter. The others are distributed to the four winds, I think.

Mr. von Holst: If the Master please, I will offer in evidence the correspondence produced by the witness. I offer in evidence as Amici Exhibit 221 letter of December 2nd, 1935, from C. L. Stokley to Mr. Kaufman.

Mr. Harris: And the envelope in which it came?

6327

Mr. von Holst: Do you need the envelope?

Mr. Harris: Well, I suppose not—I think we might as well put them both in. It shows when they were mailed and that sort of thing.

Mr. von Holst: And the envelope as 221-A.

And a letter of May 15th, 1939, from Stokley to Kaufman, as Amici Exhibit 222, and the envelope as 222-A.

Letter of October 3, 1940, from Stokley to Kaufman, as 223 and the envelope as 223-A.

Letter of January 4, 1941, from Stokley to Kaufman as 224, and the envelope as 224-A.

6328 *Colloquy*

Letter from Quixley Realty Company to Morgan S. Kaufman, as 225.

Letter from Stokley to Kaufman, dated January 26, 1941, as 226, and the envelope as 226-A, with a clipping—did you want that?

Mr. Harris: Yes, it is attached to the letter.

Mr. von Holst: All right; and a letter from Stokley to Kaufman dated March 15, 1941, as 227, and the envelope as 227-A.

Letter from Stokley to Kaufman dated March 26, 1941, as 228, and the envelope as 228-A.

6329

(Letter dated December 2, 1935, from C. L. Stokley to Morgan S. Kaufman was marked Amici Exhibit 221.

Envelope addressed to Mr. Morgan S. Kaufman, post marked December 2, 1935, was marked Amici Exhibit 221-A.)

(Letter dated May 15, 1939, from C. L. Stokley to Morgan S. Kaufman was marked Amici Exhibit 222.

Envelope addressed to Mr. Morgan S. Kaufman, post marked June 19, 1939, was marked

6330

Amici Exhibit 222-A.)

(Letter dated October 3, 1940, from C. L. Stokley to Morgan S. Kaufman was marked Amici Exhibit 223.

Envelope addressed to Mr. Morgan S. Kaufman, post marked October 3, 1940, was marked Amici Exhibit 223-A.).

(Letter dated January 4, 1941, from C. L. Stokley to Morgan S. Kaufman, was marked Amici Exhibit 224.

Envelope addressed to Mr. Morgan S. Kaufman, Esq., post marked January 4, 1941, was marked Amici Exhibit 224-A.)

(Letter dated Jan. 14, 1941 from A. C. Quixley Realty Co. to Morgan S. Kaufman, Esq., was marked Amici Exhibit 225.)

(Letter dated January 26, 1941, from C. L. Stokley to Morgan S. Kaufman with attached newspaper clipping was marked Amici Exhibit 226. 6332

Envelope addressed to Mr. Morgan S. Kaufman, post marked January 26, 1941, was marked Amici Exhibit 226-A.)

(Letter dated March 15, 1941, from C. L. Stokley to Morgan S. Kaufman was marked Amici Exhibit 227.

Envelope post marked March 17, 1941, addressed to Mr. Morgan S. Kaufman, was marked Amici Exhibit 227-A.)

(Letter dated March 26, 1941, from C. L. Stokley to Morgan S. Kaufman was marked Amici 6333
Exhibit 228.

Envelope addressed to Mr. Morgan S. Kaufman, post marked March 27, 1941, was marked Amici Exhibit 228-A.)

By Mr. von Holst:

Q. Now, have you any other papers in response to the subpoena? A. I have not.

Q. You have no copies, carbon copies, of your letters to Stokley? A. I have been looking for them but I can't locate them.

6334 *Morgan S. Kaufman—For Amici Curiae—(Recalled)—Recross*

Mr. von Holst: I should like to read into the record the list of cases that Mr. Kaufman supplied to Mr. O'Mara and that Mr. O'Mara reported to you, Mr. White on January 14, 1943:

Beemer v. Delaware & Hudson Company,
171 Fed. 821;

Suravitz v. Pristasz,
201 Fed. 335;

6335 Delaware & Hudson Co. v. Dix,
188 Fed. 901;

Cupano v. Lackawanna & Wyoming Valley Railroad Company;

Coon v. Wilson,
41 Fed. (2d) 648;

Graff Furnace Co. v. Machler,
19 Fed. (2d) 989;

In re Steel Furniture Co.,
18 Fed. (2d) 490.

6336 Lackawanna Foundry Co. v. Goodman,
29 Fed. (2d) 290.

Direct examination closed.

The Master: Do you have any cross, Mr. Harris.

Mr. Harris: Just one moment.

Recross Examination by Mr. Harris:

Q. The twelve hundred dollars which you have referred to, Mr. Kaufman, that is all that you have received from Mr. Stokley on account of interest or principal of this ten thou-

sand dollar loan that you made him in 1935? A. That is correct.

Q. Is that right? A. That is correct.

Q. You haven't received any sums by way of interest payments or otherwise from Judge Davis on account of this loan to Stokley? A. From Judge Davis?

Q. Yes. A. No.

Q. And you received no sums through Judge Davis which were transmitted by Stokley by way of Judge Davis to you? A. No, sir.

6338

Q. And the only sums that you have received are these two for which we have seen the deposit tickets today and one sum of two hundred dollars in 1936? A. That is correct.

Q. That is all that you received on account? A. That is correct.

Q. You have taken an interest in seeing that taxes were paid on your property? A. I have.

Q. On the property in your name? A. I have.

Q. And you have from time to time demanded payments if, as and when Stokley was able to make them? A. I have.

Q. You haven't foreclosed? A. I have not.

Q. You still are of the opinion that the property is more than amply worth the amount of the investment in it? A. I 6339 suppose I could walk down there tomorrow and get twenty-five thousand dollars cold cash. The old man has been up against it, he has had frosts continually, they had a lot of tough luck down there in Florida the last few years, they have had some sort of what is known as a fly or some insects getting into their fruit and they have had frosts, and this year they lost all their vegetables, and things of that sort that helps to pay the fertilizers. The old man is an honest old fellow, I didn't want to touch anything until my whole proceedings is over. When this thing is over I expect to collect every nickel of it, with interest—may not possibly charge him the eight per cent. I want to be fair with the old fellow.

6340 *Morgan S. Kaufman—For Amici Curiae—(Recalled)—Redirect*

Q. I did observe somewhere in the record, it seems to me, a letter from him, I thought, to you, in which he said some years ago that while he couldn't pay at this time, he had ascertained that he could make the loan from other sources if you insisted on payment. A. That is correct.

Q. Did you receive such a letter? A. I did receive such a letter.

Q. And the sole reason that you have not demanded payment is because you feel, first, that your investment is safe, and, second, you feel sorry for Mr. Stokley? A. That is
6341 exactly the case. I couldn't put it in any better language.

Q. Not because of repayment to Judge Davis of any favors he has ever done for you? A. None whatsoever, none whatsoever.

Q. And the Stokley loan was a legitimate business transaction,—— A. Perfectly——

Q. —so far as you are concerned? A. Absolutely, and after the facts were known I think the Judge, in charging the jury, told the jury that it was a perfectly—the exact words, I think he said it was a purely business transaction, and that the only reason that it was even submitted to the jury was to show the relationship between the Judge and
6342 myself, that was the only reason.

Mr. Harris: That is all, Mr. White.

Redirect Examination by Mr. von Holst:

Q. Mr. Kaufman, the State and County taxes on the Stokley property were paid when for 1935, 1936 and 1937? A. Oh, they were paid—the taxes for 1936—there were taxes due at the time that I made the loan, I think there was twenty-seven hundred and some dollars taxes due, which he agreed to pay in February of 1936. This was '35 tax, that wasn't city tax, that was a county tax, and he afterwards sent me a letter to the effect that that was paid, and I think he

sent me a receipt to that, also. They have a very high tax there, tremendous tax. He has been paying it right along. I think he has paid a good many thousands of dollars in taxes the last few years; and he may owe for a year or so taxes, but it is perfectly good. I didn't want to touch anything until my troubles were all over with. I didn't want to make an issue of it.

Q. Did you know how many taxes were due, what was the amount of taxes due on the property in February, 1942? A. I think he—I think he told me that personally when he 6344
was up here at the disciplinary proceedings, I forget just what amount it was, but he did tell me, but I can't recall the amount.

Q. Well, did you know then, before you saw him on that occasion, that is, about a year ago, that the taxes had been delinquent for '37, '38 and '39? A. No, that was on some small pieces of property, he sent me a statement of the whole—in fact, he didn't, the tax collector sent it to me, and there was some small amount on some small lots, but I would say that the taxes were substantially in good shape.

Q. That was your opinion a year ago, was it? A. It was.

Mr. von Holst: That is all, if the Master please. 6345

The Master: Then we will adjourn until tomorrow at two o'clock.

(Adjourned until Thursday, March 4, 1943, at two o'clock P. M., Eastern War Time.)

6346 **Transcript of Hearing, March 4, 1943**

Meeting held before Thomas Raeburn White, Esq., Master, at the offices of White and Staples, Esqs., 1930 Land Title Building, Philadelphia, Pa., on Thursday, March 4, 1943, at 2:00 o'clock P. M., Eastern War Time.

Present:

THOMAS RAEBURN WHITE, Esq., Master.

THORLEY von HOLST, Esq., (77 West Washington Street, Chicago, Illinois)

6347

One of Amici Curiae.

ROBERT W. POORE, Esq., (77 West Washington Street, Chicago, Illinois)

Counsel accompanying amici curiae.

EDWARD J. O'MARA, Esq., (15 Exchange Place, Jersey City, New Jersey.)

JOHN R. McCULLOUGH, Esq., (100 Broadway, New York, N. Y.)

representing Universal Oil Products Company.

6348

Evidence on behalf of Amici Curiae (Continued).

MARTHA A. KLIESH, having been duly sworn, was examined and testified as follows:

Direct Examination by Mr. von Holst:

Q. Please state your full name. A. Martha A. Kliesh.

Q. And your residence? A. 1680 Lawrence Road, Trenton.

Q. Are you employed? A. Yes.

Q. What is your employment at present? A. I am a deputy clerk in the office of the United States District Court at Trenton.

Q. Did you work for Judge J. Warren Davis at any time? A. Yes, I worked for him until 1940, from 1920 until 1940.

Q. And in what capacity? A. As his secretary.

Q. Was that a full-time employment? A. Yes, it was.

Q. Have you with you, Miss Kliesh, a journal of Judge Davis', a book? A. I have a memorandum book. 6350

Q. Yes. A. Which is all of a journal, as you call it, which we kept.

Q. Well, I don't know if that is the right name to call it. A. Well, it is anything but a formal journal.

Q. It is entitled "Personal Accounts", is that right? A. Yes.

The Master: Is that the same book we had yesterday?

The Witness: That is right.

Mr. von Holst: Yes, sir.

6351

By Mr. von Holst:

Q. Now, may I ask you, are all the entries in this book in your handwriting? A. To my knowledge, they are.

Q. Yes. A. I don't think there is anything else in there. In fact, I am positive there isn't.

Q. I refer you to page 21 and page 20 of this book. All those entries are in your handwriting, are they? A. Yes, they are.

Q. That is, all the writing on those two pages is yours, is that correct? A. That is correct.

Q. Including this pencil notation at the top? A. Yes.

6352 *Martha A. Kliesh—For Amici Curiae—Direct*

Q. Do you recall meeting a Wilmer Stokley? A. Wilmer Stbkley?

Q. Yes. A. Yes.

Q. Charles L. Stokley's son. A. That is right.

Q. And do you recall meeting him sometime in 1939? A. Well, I am not absolutely sure of the year, because he has been in this vicinity a number of times and to my knowledge I have come in contact with him each time that he came north.

Q. Do you remember the first time he came north? A.
6353 Well, so far as I know the first time that he came north was when he was at Bucknell University, and he came up to visit his uncle. Now, whether that is the first time I ever met him, I am not sure. I think I met him once before that.

Q. And what year was it that he came up from Bucknell? A. Well, as I recall, he graduated in '35 or '36, I am not sure. I was trying to think, coming up on the train, what that year was. I really don't know whether it was '35 or '36.

Q. May I ask, do you recall the year in which the Government to your knowledge began its investigation into the affairs of Judge Davis? A. Well, I know the trial was in 1941 and I know the investigation was going on, oh, I guess a year or more before that.

6354 Q. Is that as closely as you can fix it? A. Well, let's see, in May, 1941, was the first trial, and the year before that there were some investigations in New York, I know that, because I remember early that spring Judge Davis was over in New York, and I was over there with him once or twice, in 1940.

Q. Yes. A. So I know definitely it was going on all of 1940.

Q. I think Judge Davis stated that his best recollection was in the early part of '39, March of '39. A. Well, of course,——

Q. Does that correspond with your recollection at all? A. Well, I know that I had heard inklings of it, and seen newspaper accounts quite a while before that.

Q. Yes. A. But I would be afraid to say just how long before that.

By the Master:

Q. When you say "before that", you mean before—— A. Before the 1940.

Q. Yes. A. Before the spring of 1940.

Q. Yes. 6356

By Mr. von Holst:

Q. Do you recall that Judge Davis retired in March, 1939? A. Yes, sir.

Q. Does that aid you at all in fixing the date as to when this investigation was instigated, to your knowledge? A. Well, I think the investigation was going on then, but I am not absolutely sure whether I knew of it at that time or not.

Q. I see. Do you recall a meeting with Wilmer Stokley to go over certain accounts of Stokley—of his father, I should say, Charles Lee Stokley,—— A. Yes, I do.

Q. —with Judge Davis, subsequent to the time that the investigation began? A. Well, I think that was in 1939 but I—I couldn't be absolutely sure of it. 6357

Q. Well, I am just asking for your best recollection. A. Yes, yes, well, that is my best recollection.

Q. And did you go over these accounts with Wilmer Stokley? A. Yes, I did.

Q. These payments? A. Yes.

Q. And where was that meeting with Wilmer? A. In Judge Davis' office, in Trenton.

Q. Do you recall what time of the year it was? A. Well, it was in the spring or early—yes, early spring.

Q. And who was present? A. Well, just Judge Davis and Wilmer and myself, and then, as I recall it, Judge Davis was busy or had a conference, and the young man came out into my office and I went over the accounts with him to see if they corresponded with what he had, and we found they did, and he—there was some fruit, which Mr. Stokley had shipped for the Judge, and he had an account of all that fruit and he asked me to credit—or, rather, Judge Davis had asked me previously, and I guess Mr. Stokley did, too, to give them credit for that fruit, on the amount of money which he owed Judge Davis, which I did.

6359 Q. Now, referring to this book, and to page 21, and to the first six items, that of June 22nd,—I will just give them by dates,—— A. Yes.

Q. —July 7th, February—I notice there is a "1" after that. A. I put that in there this morning.

Q. Oh. A. Because if you notice, it is just in pencil.

Q. Yes, it is in pencil, and it wasn't there yesterday. A. It wasn't there, I am sorry, I thought, I am going to put it in there because—just to give me an idea, I really didn't know, there is just a pencil mark there.

Q. All right, now, we will just forget that pencil. A. All right, that isn't there, I am sorry. I did that on the

6360 train, coming up.

Q. And the March date, and the June date, and the August date, and the February date, and the March 3, 1939, all those entries corresponding to those dates, clear across the page,—— A. Yes.

Q. —including the caption, "Stokley, Charles L. Payments on Principal of 4000.00", were those entries made at the same time by you? A. I think they were.

Q. And when was that done? A. Well, I can't tell you just exactly when that was done, but it was done one winter when Judge Davis was in Florida and I had a lot of time on my hands, and we had a little old memorandum book which

had been in the office for years and years, and I decided that that book was absolutely not safe, because the pages were falling out of it, and I had clipped them and pasted them to Scotch tape—or whatever we had for Scotch tape at that time, I guess it was in existence—and I copied it, copied the accounts out of that book, into this book.

Q. And these subsequent entries, January 4, 1941, January 7, 1941, February 6, 1941, May 18, 1942, May 29, 1942 and July 3, 1942, were added afterwards, I take it? A. That is right, they were added as the amounts were paid or the credit was given. 6362

Q. But these first six items to which I previously drew your attention——

Mr. McCullough. Eight items, isn't it?

Mr. von Holst. Eight, correct, first eight items.

The Witness: Well, I am not sure about this one (indicating), because——

By Mr. von Holst:

Q. By "this one" you mean the March 3, 1939? A. I will tell you why, as far as I recall Judge Davis didn't go to Florida after 1939, he hasn't been down since then, and I know I did that while he was in Florida. I mean, I made 6363 this copy of the sheet.

Q. Yes. A. Now, if he was in Florida in 1939, this item was

Q. That is, the March 3, 1939, item? A. Was probably added when Wilmer was in our office in Trenton.

Q. Yes. A. I have a pretty definite recollection of that being added at that time, because for some reason he wanted to have a credit of two hundred and some dollars, and he—we only had fruit amounting to one hundred and ninety-seven, which had been over quite a period of time, and he

6364 *Martha A. Kliesh—For Amici Curiae—Direct*

said, "Well, I will give you fifteen dollars in cash of my own money", which he did do.

Q. Yes. A. Now, for that reason I don't think that this could have been put in at the same time that these other items were put in.

Q. Now, let's get that clear on the record. By "this", you mean the March 3, 1939? A. March 3, 1939, that is correct.

Q. But you think that the other items, that is, the first 1, 2, 3, 4, 5, 6, 7—— A. Yes.

Q. —were all entered at one time? A. I think they were.

6365 Q. And that time would, of course, have been—— A. Probably——

Q. —in '38? A. —in '38.

Q. At the same time that these items were—— A. Oh, I beg your pardon, may I interrupt just a moment? It may have been in the early part, in February of 1939.

Q. Yes. A. When Judge Davis was in Florida.

Q. Yes. A. I really can't recall which year it was, because there was no special reason to impress it on my mind.

Q. But it would not have been earlier, of course, than February 28, 1938? A. No, I am sure of that.

Q. And that applies to the caption, Charles Stokley?

6366 A. That is right.

Q. The opening of this page? A. That is correct, yes, sir.

Q. And I suppose that, referring to page 20, that also applies to this entry with respect to interest,—— A. Yes, sir.

Q. —as it all seems to be in the same—— A. Yes.

Q. —ink, or same writing. A. Runs right along, that is correct.

Q. Miss Kliesh, have you the original from which this thing was made up?

Mr. O'Mara: You mean the first cash items?

Mr. von Holst: Yes.

A. That old book, you mean?

By Mr. von Holst:

Q. That old book. A. No, I do not.

Q. Was that thrown away, or lost, or what? A. I am afraid—well, I think probably it was lost or discarded. When Judge Davis resigned and we cleared out the office, we had four offices in Trenton, four separate rooms, all of which had a lot of our things in, and I do know that, 6368
oh, box after box of things was taken out of there and destroyed, simply because we couldn't do anything else with it. Now, Judge Davis asked me if I had that old book, last night, and I told him, no, I did not, and I didn't think that it was anywhere around.

Q. Now, when Wilmer Stokley came up and you went over these accounts with him,— A. Yes.

Q. —were you working from the old book that you now say is not available any more, or were you working from this book, with Wilmer? A. Well, I wasn't working from any book, I was working—I don't mean I wasn't working from any book, but I was working from his statements for fruit, and so forth, as much as anything else, to see how 6369
much I was to give him credit for, and then he, as I recall it, had a list of the payments which his father had made and he asked me to compare it to see if it corresponded with mine.

Q. Yes. A. And I must have had this book at that time.

Q. Well, is that a conclusion or is it a definite recollection? A. That is a conclusion.

Q. Is it possible that you may have made up the book from Wilmer's statements? A. Oh, no, no, that isn't possible, because I kept those just the same—whenever Judge

Davis would either get a check, or, if he was in Florida and Mr. Stokley paid him some money, he would drop me a note and tell me he had paid him, or if the check came in, I opened his mail all the years I worked for him, with the exception of personal mail, and if the check came in, if the Judge didn't happen to be there, I probably deposited it, sometimes even before he returned to Trenton, if he was stopping in Florida, or something of that kind, and I always put them down.

6370 Q. Do you recall typing that letter for Judge Davis? That is only a photostat, of course, a negative photostat, and
6371 I haven't got the original. By that letter, I mean——

Mr. O'Mara: March 3, 1939.

By Mr. von Holst:

Q. —Amici Exhibit 207 for identification. A. I expect I did. I don't definitely recall writing it, but I am sure I did write it.

Q. Well, let me ask—— A. Just a moment.

Q. Maybe I can refresh your recollection. A. $160.00—see, this was 1939, and I assume that this, this $160.00, was included in this (indicating).

6372 Q. Well, let me show you this letter, too, Amici Exhibit 206, which is signed—— A. Signed "Bill"—that is Wilmer. That is what they called him.

(Amici Exhibit 206 for identification was shown to the witness.)

By Mr. von Holst:

Q. Did you recognize that as Wilmer's signature? A. Well, just Bill, I wouldn't. If I saw his whole signature I would probably recognize it.

Q. Yes. A. But just whether or not he wrote that, I wouldn't be sure.

Q. Well, just glance over that letter, will you,—— A. Yes, surely.

Q. —and see whether that refreshes your recollection. A. Yes, I remember that.

Q. Do you remember this Amici Exhibit 206? A. Yes. May I suggest that I think that that is my handwriting, that $52.50.

Q. I see. A. In fact, I am pretty sure it is.

Q. Where it is pencilled in under the total, $160.00? A. Pencil or ink, I don't know which it was.

Q. No, I don't either. A. But I added that.

6374

Q. Those figures, $52.50. And what does that say, "more credit"? A. More credit, $52.50, yes, $52.50 more credit.

Q. So you do remember getting this letter from Bill? A. Oh, yes, now that it is shown to me, yes, I think there is no question about it.

Q. Amici Exhibit 206. And this letter of March 3, 1939, Amici Exhibit 207 for Identification, you think you typed that letter for Judge Davis? A. I think probably I did, yes, sir.

Q. And in the last paragraph—— A. I don't quite understand it, now, because I notice it is the same date as this, and it says one hundred and sixty, except that I think this clears it up, there is the one hundred and sixty plus the fifty-two, which made the credit that I gave him.

6375

Q. Yes. A. But where—why this one hundred and ninety-seven—well, as I told you, it says fifteen dollars, that Bill gave me in cash, but I think you will find, don't they aggregate the same?

Q. The two totals are the same. A. Yes, yes.

Q. $212.50. A. But probably when he wrote this letter——

Q. This letter, 206 for Identification. A. Which was February 27th.

Q. Yes. A. There may have been a little more fruit shipped, and by the time I talked with Bill—if this was the

6376 *Martha A. Kliesh—For Amici Curiae—Direct.*

time, and I am just about sure it was—why, there was a little more fruit which he should have credit for.

Q. Well, Miss Kliesh, do you remember, referring to Amici Exhibit 207 for identification, the letter of March 3rd, 1939, to Charles L. Stokley, and referring to the last paragraph of it, was it subsequent to that, the date of that letter, that Wilmer came up and went over the accounts? A. Well, I really couldn't say.

Q. I see. A. I don't know.

Q. I only want your best recollection. A. Well, I really
6377 don't know. It may have been written the same day, I don't know.

Mr. von Holst: I should like to offer in evidence these two letters, I think they have now been sufficiently identified, Amici Exhibit 206 and 207 for identification, as Amici Exhibits 206 and 207.

Mr. O'Mara: There is no objection.

The Master: They may be received.

(Photostatic copy of letter dated February 27, 1939, from "Bill" to Judge J. Warren Davis, Trenton, New Jersey, previously marked Amici Exhibit 206 for Identification, was marked Amici
6378 Exhibit 206.)

(Photostatic copy of carbon copy of letter dated March 3, 1939, to Charles L. Stokley, previously marked Amici Exhibit 207 for Identification, was marked Amici Exhibit 207.)

By Mr. von Holst:

Q. Miss Kliesh, I hand you a document consisting of three pages and a backer, of which a photostat is included in these proceedings as Amici Exhibit 75,—— A. Yes.

Q. —and ask you whether you recall having typed this agreement, this contract.

Mr. McCullough: That isn't quite accurate.

Mr. O'Mara: Which is that?

Mr. McCullough: This that was marked isn't a photostat of that, at least, what the stenographer sent us isn't. This is on short legal. That is on long legal.

Mr. Behrens: This is a signed copy that is in evidence. Is that a signed copy, too?

Mr. Poore: That is a reduced photostat.

Mr. von Holst: This is the original.

The Master: It has been reduced here, obviously. 6380

Mr. von Holst: The signatures are the same.

(Discussion off the record.)

The Master: Why don't you proceed with your examination? No doubt it is the same document.

By Mr. von Holst:

Q. Referring to this contract, a photostat of which is in evidence in these proceedings as Amici Exhibit 75, can you state whether you typed that? Just take a look at it and at the signatures. A. Well, it looks like a copy of the one, that is, carbon copy of an agreement which I typed, 6381 yes, sir.

Q. Yes, and that was typed in Judge Davis' chambers, was it not? A. Yes, it was.

Q. And on the stationery, official stationery—— A. Looks like it.

Q. —of the Government? A. Yes, sir.

Q. As you see by the watermark (indicating). A. That is right.

Q. Which appears on each page? A. Yes.

(Another page was shown to the witness.)

The Witness: Yes.

6382 *Martha A. Kliesh—For Amici Curiae—Direct*

(Another page was shown to the witness.)

The Witness: Yes.

(Amici Exhibit 75 was produced and compared with the copy shown to the witness.)

Mr. von Holst: The record will sufficiently show that the last questions directed to the witness were with reference to the original document, of which Amici Exhibit 75 is a photostat.

Mr. O'Mara: And that original is a carbon.

6383 Mr. von Holst: Is a carbon.

The Master: Well, it is an original, signed carbon.

Mr. O'Mara: Duplicate original, but that is a carbon copy, not the first impression, we will call it.

Mr. von Holst: That is right.

By Mr. von Holst:

Q. Miss Kliesh, returning once more to this book, I would like to ask you if it is not a fact that this entry on page 21, March 3, 1939, "By credit for fruit", $197.50, and underneath that, "By cash", $15.00, was entered by you subsequent to March 3, 1939, for the reason that, referring to Amici Exhibit 206 and Amici Exhibit 207, and specifically refer-

6384 ring, first, to Amici Exhibit 207, this letter says that—and it is dated March 3, 1939, it says that the credit is $160,00, "by fruit shipped during that period."; and my point is that if this entry on page 21 of the book had been entered on March 3rd, wouldn't it have been in accordance with the letter of March 3rd, $160.00, instead of the evidently corrected amount of $197.50, plus fifteen, cash? A. Yes—unless I had written that letter early in the day in answer to this letter.

Q. To this letter,—— A. Of Mr. Stokley's.

Q. —Amici Exhibit 206. A. And Bill came in later and then I entered it—now, that is just a conclusion, I am not

absolutely sure, because I do know that whatever day it was that he was in there, he came in late in the afternoon, he was visiting some young lady there in Trenton, and he was there in the afternoon and he went home with Judge Davis for dinner. Now, I am not sure, that is just a conclusion of mine.

Q. Well, do you have a recollection that this item of $197.50 and $15.00, on page 21 of the book, was entered by you when Wilmer was present? A. Not definitely, no, sir.

Q. Yes. A. It would just seem logical that it was.

Q. Well, of course—— A. But I—I mean, I am not sure, 6386
I may have put it in the next day.

Q. Miss Kliesh, what we want to get is your best recollection. A. Well, that—my best recollection——

Q. We don't want you to just assume things. A. That is right, yes. My best recollection is that it was, because I must have had the book in front of me.

Q. That it was when Wilmer was present? A. Yes.

Q. Well, do you recall the occasion, or is that just an assumption? A. Oh, I can see him sitting there, very plainly, yes.

Q. Well, you know that he was up? A. Oh, yes, and I know he was in the office, I know just the room he sat and I know the table he sat at, my desk was over here (indicating), there was a table over here (indicating), I went to the 6387
drawer of my desk and took out whatever letters or papers or whatever I had showing—I suppose this letter, perhaps, and whatever else I had, and brought it over to the little table, there is no doubt at all in my mind as to that.

Q. By "this letter" you mean Amici Exhibit 206? A. That is correct.

Q. So that meeting with Wilmer was subsequent to the date of these two letters, 206 and 207? A. I would say yes.

Mr. McCullough: She said, or on that day.

Mr. O'Mara: Subsequent to the time of the letter.

6388 *Martha A. Kliesh—For Amici Curiae—Direct*

The Witness: Subsequent to the date or the time of the day.

Mr. O'Mara: Yes.

The Witness: As far as the second one is concerned, but subsequent to the date, as far as the letter from Bill to Judge Davis is concerned.

By Mr. von Holst:

Q. What did this, what you have referred to as an original record, consist of? A. You mean the book from which these entries were made,——

6389

Q. Yes. A. —those first six or seven entries?

Q. Yes. A. Well, it was a book very much on the order of this, as I recall it, just a little five and ten-cent store notebook. I don't recall whether it was this kind of a binding or whether this was the same color, but I do know it was a book about the size of this and had blue lines in it.

Q. And do you remember when that was started and what period it covered? A. Oh, I suppose that was started—oh, I don't know, when I went to Judge Davis' office there was a little book about as big as that, not any larger, in which his former secretary had just jotted down a few dates of when money was due, or something of that kind, and I

6390 remember using it.

Q. Now, you say "as big as that"; the record won't show—— A. All right, it was probably about nine or ten inches by three, four inches.

Q. Yes. A. And I used that for a while, just in jotting down. There was very little to keep at that time.

Q. Let's see, that was what year? A. That was in 1920.

Q. Yes. A. Now, how long I used that——

Q. That wasn't the book that you are talking about? A. No; that wasn't the book from which I made these entries, no, sir.

Q. All right. A. That was one his previous secretary had. Now, how long I used that, just exactly, I dont know.

Q. Well, in your best recollection, about how long before you started this book that you have before you, did you have the other book; that is, the immediately preceding book, that you say was destroyed? A. Well, I can't tell you how long, but I can tell you that I had it in 1927.

Q. Yes. A. Now, how long before that I—it would just be a mere guess.

Q. Well, you had it in 1927? A. Yes, sir.

Q. And you say it was destroyed? A. I am not saying positively but I am saying that after Judge Davis left his chambers and we took what few things he wanted to keep out to his home I was unable to find it. 6392

Q. And that was when? A. Well, that was in 1941.

By the Master:

Q. You said after Judge Davis resigned? A. That is right, and I think he resigned in 1941, in the fall. That is my best recollection.

By Mr. von Holst:

Q. And this other book, that is now not available any more, you say you don't know whether it was destroyed, or lost, or what? A. That is correct. 6393

Q. Did you look for it at the time that he moved? A. No, not especially.

Q. Well, when did it first come to your attention, Miss Kliesh, that that book was missing? A. Well, I don't know as I thought a great deal about it until last October, when Judge Davis had a subpoena to come down here.

Q. Yes. A. And I was looking up some material for him and he asked me at that time if this old book was in existence, and he asked me again last night.

Q. So would you say that you didn't know of its not being in existence until last October? A. Well, I wouldn't say that I didn't know it, no, but I would say that, well, I just gave it no thought, because I had what I needed in this book and I didn't bother about it one way or the other, I am afraid.

Q. Well, was it brought home to your attention that it was not available, or before last October was it the fact that you didn't know—— A. No.

Q. —whether it was or was not? A. It wasn't brought to my attention before that.

6395 Q. I see, so far as you were concerned the book might have been in existence before last October. A. That is correct.

Q. That is the first time that you made a search for it? A. That is when I definitely searched for it, yes.

Q. And you had been looking for it before that time? A. Not to my recollection, no, sir.

By the Master:

Q. Had you kept the items in the other book? Had you made the entries in the other book? A. In the book which was used before this?

6396 Q. Yes. A. Oh, yes, yes.

Q. And when you copied them into this book were they just as you entered them or had there been any additions or errors or corrections or anything of that sort? A. You mean when I made up this book——

Q. Yes. A. —did I make any corrections?

Q. Had any been made in the other book, or was it just as you had entered them? A. Oh, no, it was just as I had entered them, so far as I now recall, I mean, because no one else ever handled the book except myself.

Q. The book was in disrepair, I think you said? A. Very much so.

Q. About to fall to pieces? A. I think practically every leaf was loose in it, and, as I said, I had used Scotch tape

to hold the pages together, which, naturally, would happen after almost twenty years of use.

Mr. von Holst: No further questions.

Mr. O'Mara: No questions.

(Discussion off the record.)

Mr. von Holst: May I ask, I believe that it would be helpful, there has been so much testimony about this book, if we could have a photostatic copy of those two pages.

The Witness: Do you think you better erase that "1", as long as that wasn't in there? 6398

Mr. von Holst: Well, that is all right, as long as your have explained it.

By the Master:

Q. Which is the "1"? A. This had no date, Mr. White, and this morning I thought I would put something in there, simply to figure out things or have a date, that is all.

Q. Did you know, or do you know now it was February 1? A. No, no, I didn't.

Q. You just put that in? A. That is right, because I had said up here, now, I am not at all sure some of these other dates may not be the exact date, this might have been the 6th, or might have been the 8th, but they were entered that way, just to have—— 6399

Mr. von Holst: My thought is it would probably aid in the understanding of the testimony.

The Master: Yes.

Mr. von Holst: If those two pages were photostated.

Mr. O'Mara: Well, do you expect to offer those pages in evidence?

Mr. von Holst: Yes.

Mr. O'Mara: Well, of course, I have no right to say anything about the book, as far as Judge Davis

6400 *Colloquy*

is concerned, I don't know whether he wants that out of his possession or not. I have no objection whatever to those pages going in evidence, but it seems to me that if it is going to be photostated it ought to be done under the Master's direction, because there are other things in that book which apparently have no bearing at all——

Mr. von Holst: I had no wish to——

Mr. O'Mara: I understand that, Mr. von Holst. I just wanted to make it clear.

The Master: This has been offered, has it?

6401 Mr. von Holst: No, but I should like to offer page 20 as Amici Exhibit 229, and page 21 as 230.

Mr. O'Mara: We have no objection.

The Master: They may be received in evidence. And you would like to have them photostated?.

Mr. von Holst: Yes.

(Page 20 from Account Book produced by J. Warren Davis, for Charles L. Stokley, was marked Amici Exhibit 229.)

(Page 21 from Account Book produced by J. Warren Davis, for Charles L. Stokley, was marked Amici Exhibit 230.)

6402

Mr. von Holst: We should like to file this original subpoena on Charles Stokley, if the Master please.

The Master: Very well.

Mr. von Holst: And I should also like to offer in evidence a photostat of a letter dated March 5, 1940, signed by W. M. Behrens and addressed to John T. Cahill, Esq., United States Attorney, Attention of Mr. Willauer, with enclosures consisting of five letters,——

Mr. O'Mara: May we see them?.

Mr. von Holst: —as Amici Exhibit 231.

Mr. O'Mara: We will make the general objection as to their relevancy, Mr. White. Outside of that we have no objection.

The Master: Well, I presume these have some bearing on the case——

Mr. von Holst: Yes, sir.

The Master: —as you may develop it. I will receive them in evidence, although I don't exactly see their relevancy at this time.

(Photostatic copy of the following letters were marked Amici Exhibit 231: 6404

Photostatic copy of letter dated March 15, 1940, from W. M. Behrens, Universal Oil Products Company, to John T. Cahill, Esq., United States Attorney, New York, New York, Attention Mr. Willauer.

Photostatic copy of copy of letter dated September 29th, 1931, from F. L. Belknap to Messrs. Day and Day.

Photostatic copy of copy of letter date January 22, 1940, to Mr. Charles M. Thomas.

Photostatic copy of copy of letter dated January 22, 1940, to William F. Hall, Esq.

Photostatic copy of copy of letter dated January 22, 1940, to Mr. William F. Hall. 6405

Photostatic copy of copy of letter dated January 26, 1940, from William F. Hall to Mr. H. J. Halle.)

Mr. von Holst: We have nothing further to present at this session, if the Master please.

The Master: Mr. O'Mara, anything from you or Mr. McCullough?

Mr. O'Mara: Nothing, sir, not at this time.

The Master: Well, now, you are waiting to get those documents, are you?

6406 *Colloquy*

Mr. von Holst: We are, sir, yes.

The Master: And then you may call Wilmer Stokley and you may not, is that it?

Mr. von Holst: That is right.

Mr. O'Mara: Are the documents going to be sent here to Philadelphia?

Mr. von Holst: That is my understanding, yes, Mr. O'Mara. I plan to try to get in touch with Stokley this afternoon, by phone, to make sure that he is attending to that.

6407 Mr. McCullough: What is the procedure going to be when the documents get here?

Mr. O'Mara: Well, I was just going to make a suggestion on that. I think that when the documents get here perhaps the thing to do would be for the Master to notify both sides and have the box inspected in the presence of a representative of Mr. von Holst's office and a representative of our office or Mr. Harris's office, and we can make that inspection here, just as we made the inspection in the United States Attorney's office in New York, and at a time that is mutually agreeable.

Mr. von Holst: I think that is entirely satisfac-
6408 tory, Mr. O'Mara: I would suggest, though, that it might be a good plan to list the contents of the box.

Mr. O'Mara: I agree with that.

Mr. von Holst: At the time it is opened.

Mr. O'Mara: I agree with that.

Mr. von Holst: So we definitely know what was in it.

Mr. O'Mara: I agree with that.

Mr. von Holst: I think if the Government had only done that a few times we would have been saved a lot of trouble.

Mr. O'Mara: I think perhaps you are right.

Mr. McCullough: Perhaps Mrs. West can make a list of what is in there.

The Master: We might make a list of what is in there. You might feel there was nothing in there that you might want to inspect.

Mr. O'Mara: That might be, too.

Mr. von Holst: Of course, it would be rather difficult to tell from a list whether there was any particular exhibit that had any bearing.

Mr. O'Mara: Well, suppose we leave it this way, then, when Mr. White notifies us that the box is available, you and I will agree upon a time when we can 6410
have representatives here to have the contents examined, in the presence of each other, and with Mrs. West there, and we will do exactly as we did in New York.

Mr. von Holst: Would that be satisfactory to the Master?

The Master: Yes, that is all right.

Mr. von Holst: I will take it upon myself to see that that is sent up as soon as possible.

Mr. O'Mara: All right.

Mr. von Holst: In order that there be no further 6411
unnecessary delay.

The Master: Well, now, what is your desire about the further proceedings in this matter? I believe Mr. Harris stated you will have no evidence to offer.

Mr. O'Mara: Well, I left early yesterday afternoon, as you might recall, Mr. White, and my conversations with Mr. Harris before the yesterday session were that as far as we knew then we probably would not offer any evidence, but I do not want to be foreclosed. I mean, we would like to reserve our final say on that until the Amici have rested their case.

6412 *Colloquy*

The Master: All right. I was wondering whether we could not begin to fix a time when we could have briefs filed. Do you want to have any oral argument in this case, or do you want to rely on briefs?

Mr. O'Mara: Well, what would be your pleasure, Mr. White?

The Master: Well, I think I would leave it to counsel, what they would prefer.

Mr. McCullough: I thought we had a tentative arrangement on briefs, that the Amici were going to file a brief and we would reply to it.

6413 The Master: That is all right.

Mr. O'Mara: But the time, Mr. White,——

The Master: The time, and also the question of whether you wanted——

Mr. O'Mara: Oral argument.

The Master: Wanted to discuss it orally.

Mr. von Holst: I would like to confer with Mr. Thiess about that, as far as our side is concerned.

Mr. O'Mara: Of course, I want to confer with Mr. Harris, too.

The Master: Yes.

Mr. von Holst: We ought to notify you as soon as we can.

6414 As to the time for briefs, that is another difficult thing. There is a great deal of evidence to be collated, collected——

The Master: A great deal.

Mr. von Holst: —and I wish to make this explanation on our behalf—and I know it is true of Mr. Harris's office, too—that we have been since the first of January working on the brief on appeal with the same opponents, the Universal Oil Products Company, in the case that was pending in Chicago, and that has taken all time continually up until the time of filing.

which was on the 15th of February. Although we have made some start on the brief here we have not made much progress. So, again, as to how long we would require, it is a little difficult for me to say right now.

The Master: I should think that the testimony already taken covers most of the facts that you want to consider.

Mr. von Holst: Yes.

The Master: I mean the testimony that has been transcribed.

6416

Mr. von Holst: That is true.

The Master: I should think that you could go ahead with your brief.

Mr. von Holst: Oh, we shall as soon as we get back, continue it.

The Master: Could you have any date in mind that you feel you could name to have a brief ready?

Mr. von Holst: The 15th of April, I would like to suggest.

The Master: 15th of April. That will give you thirty days and a little over.

Mr. von Holst: Little better.

The Master: Yes. Well, suppose we say, then, 6417 that you will file your brief and requests on the 15th of April.

How long do you think you will want, Mr. McCullough and Mr. O'Mara?

Mr. O'Mara: I would say that we would require a month after that, Mr. White, wouldn't you?

Mr. McCullough: Well, you may recall somebody asking Mr. Harris——

Mr. O'Mara: That oil case comes in.

Mr. McCullough: That comes in some time the week of the 12th.

6418 *Colloquy*

Mr. von Holst: So is our case to be argued the first week of April, or second week.

(Discussion off the record.)

Mr. McCullough: I would think we would want, in view of that slight delay, at least six weeks. I mean, that is six weeks from now. Mr. von Holst was suggesting for his, we will have that short preliminary delay, and I should think it would be the first of June. That would be six weeks.

6419 The Master: Well, I think that is all right. I would like to give you as much time as you gentlemen feel that you need. I know the record is very large. If you do have oral argument I would like to have it before the summer, because I would like to have the summer to myself, to give some attention to the matter, which I know the Court of Appeals is looking to me to decide fairly soon, and the summer is a little more leisurely, sometimes, at least; and sometimes not, but I probably could give it more attention during the summer than I could another time.

Well, then, we will understand that the Amici's brief and requests will be filed on the 15th of April, and the reply by the first of June.

6420 Mr. von Holst: I assume that we would under those circumstances have a reply to Universal's brief, and I should think if we asked for fifteen days there, we would be——

The Master: Yes. However, I think——

Mr. von Holst: —justified.

The Master: —you could prepare that at the same time that you are preparing for argument orally, if you mean to do that.

Mr. von Holst: Yes, sir.

6421

The Master: Of course, if you want to rely on your briefs, that is all right. Sometimes, in a case as complicated as this and with as much conflict of testimony as there is, an oral discussion might help to clear it up, but I will leave that to you, I think.

Mr. O'Mara: It is your idea, Mr. White, that if there is an oral argument it should take place sometime between the 15th and the 30th of June, I assume.

The Master: Not later than that, yes.

Mr. O'Mara: I think that is entirely satisfactory.

The Master: All right.

6422

6423

6424 **Transcript of Hearing, April 2, 1943**

Meeting held before Thomas Raeburn White, Esq., Master, at the offices of White and Staples, Esqs., 1930 Land Title Building, Philadelphia, Pa., on Friday, April 2, 1943, at 10:00 o'clock A. M., Eastern War Time.

Present:

THOMAS RAEBURN WHITE, Esq., Master.

J. BERNHARD THIESS, Esq. (77 West Washington Street,
6425 Chicago, Illinois).

THORLEY VON HOLST, Esq. (77 West Washington Street, Chicago, Illinois). Amici Curiae.

ROBERT W. POORE, Esq. (77 West Washington Street, Chicago, Illinois). Counsel accompanying amici curiae.

RALPH S. HARRIS, Esq. (100 Broadway, New York, N. Y.).

EDWARD J. O'MARA, Esq. (15 Exchange Place, Jersey City, N. J.).

JOHN R. MCCULLOUGH, Esq. (100 Broadway, New York, N. Y.), representing Universal Oil Products Company.

6426 *Evidence on behalf of Amici Curiae (Continued)*

WILMER C. STOKLEY, having been duly sworn, was examined and testified as follows:

Direct Examination by Mr. von Holst:

Q. Please state your name. A. Wilmer C. Stokley.

Q. And where do you live? A. 6032 Northwest 23rd Avenue, Miami, Florida.

Q. You are the son of Mr. Charles Lee Stokley? A. Yes.

Q. Of Mount Dora, Florida? A. Yes, sir.

Q. What is your occupation at present? A. I am instructor trainee with the Embry-Riddle School of Aviation.

Q. And how long have you been doing that, Mr. Stokley? A. I have been with them now since March 8th.

Q. Now, you are a graduate of Bucknell University, are you, Mr. Stokley? A. Yes, sir.

Q. And what year did you graduate? A. 1935.

Q. And upon your graduation what did you do? A. I went down to Portsmouth, Virginia, and tried to sell some life insurance.

Q. And how long were you at that? A. I was there until the middle of October of 1935. 6428

Q. Now, without going into everything that you did between that time and the period that I am inquiring about, sometime after you graduated did you go to Mount Dora and assist your father in his business? A. Yes, sir.

Q. When was that? A. That was the last of October of 1937, and I returned to Mount Dora.

Q. And for how long a period were you assisting your father in his business? A. Well, I left Mount Dora in February, 1941, but I was with him and living at home during that period.

By Mr. Harris: 6429

Q. What period? A. During 1937——

By Mr. von Holst:

Q. October? A. In October, the last part of it, I think it was either the last of October or first of November.

Q. 1937? A. Yes, sir.

Q. Until when? A. February, 1941.

Q. And during that period you were helping your father with his business? A. Yes, sir.

Q. Is that right? A. I was working for him.

6430 Q. And you kept the records as well as you could, did you, or made an attempt to? A. I made an attempt to keep the records.

Q. Did you tend to the bank accounts? A. Well, they were partly kept by me, in that I deposited checks and cash that came in, part of them, and Dad deposited the other part. He wrote the checks, and I made an attempt to keep everything straight.

Q. Well, you kept the check books, didn't you, the stubs? A. As well as I could. There were a lot of those stubs that were missing, that Dad never felt necessary to fill in.

6431 Q. Yes, but there was a period there where you, as well as you could, you kept a running balance on the check stubs, didn't you? A. Yes, sir.

Q. And made the entries on the check stubs, is that right? A. Yes, sir, I made most of them.

Q. In other words, you tried to help your father keep the business in a little bit more orderly fashion, is it fair to say that? A. That was what I tried to do, but I had to give it up as a bad job.

Q. By the way, what course did you major in at Bucknell? A. The bookkeeping, accounting and bookkeeping. I had my heart set on banking at the time.

6432 Q. Now, did there come a time when you were approached, or your father and you, to your knowledge, by representatives of the United States Department of Justice, on an inquiry? A. Yes, sir.

Q. And who was the first Government man that you met? Was that Winstead? A. I remember the man but I don't remember the name, sir.

Q. You don't remember the name Winstead? A. No, sir —I recall the name Winstead, and I think he was the only one that I saw.

Q. Did he go down to Mount Dora? A. Yes, sir, that is where I met him.

Q. Now, then, can you place that time when you first met him, to the best of your recollection? A. I believe that was in the late summer or early fall of 1940—I beg your pardon, 1939.

Q. 1939? A. Yes.

Q. And did you get together some papers and records for the United States Attorneys? A. Yes, sir.

Q. And for Mr. Winstead? A. Yes.

Q. And those papers and records had to do with what? A. Well, Mr. Winstead insisted on taking just about everything we had, which included deeds of property that had been sold, and mortgages, and, of course, the inadequate ledger 6434
that I had been trying to keep, and I believe he took checks, check balances and bank statements and just about everything we had in the line of legal papers.

Q. And he took those with him to New York, did he? A. Well, no, sir, I brought part of them, as I remember, Dad brought part, and then when I went home after the inquiry Mr. Winstead was there and got some more.

Q. I see. A. And I think that Dad sent more along after that, but I am not certain about that.

Q. At any rate, you tried to get together for him everything that he wanted,—— A. Yes, sir.

Q. —that had anything to do with the business,—— A. 6435
Yes.

Q. —isn't that right? Now, did you come up to New York for examination by United States Attorneys? A. Yes, sir.

Q. You and your father? A. Yes.

Q. And you were examined together, weren't you? A. I believe we were examined together, part of the time.

Q. Did you testify before the Grand Jury? A. Yes, sir.

Q. You did, also? A. Yes.

Q. And your father did? A. Yes.

Q. Now, did you testify before the Grand Jury before or after you were examined by the United States Attorneys.

do you remember? A. Well, I was examined by the attorneys before and after.

Q. I see. The attorneys' names were Walter Gahagan and a man named Lauritano? A. Yes, sir.

Q. And when were you first examined by them? A. I forget the date, sir. It was in February, right at the last part.

Q. February, 1940? A. Yes, and it was just as soon as we got there—as I got there. Dad was already in the City.

Q. Yes. A. I believe that was on a Friday, also. I
6437 can't be certain about that.

Q. You referred a little while ago to a ledger. Is this the ledger, that I am handing you now?

(A book was shown to the witness.)

A. No, sir, that isn't the ledger I kept. I might have made a couple of entries in that, but it isn't it.

By Mr. von Holst:

Q. This isn't the ledger you are referring to? A. No, sir, that was kept prior to the time I came home.

Q. This was kept prior to the time you came home, in 1937? A. Yes, sir.

6438

The Master: Hadn't you better mark it for identification?

Mr. von Holst: Yes, sir. I ask the reporter to please mark this ledger as Amici Exhibit 232 for identification.

(A ledger was marked Amici Exhibit No. 232 for Identification.)

By Mr. von Holst:

Q. Let me ask you, did Mr. Winstead, when he came down there first, take a lot of stuff with him when he left

Mount Dora? A. I really don't remember how that equipment was taken out. I think that he took quite a bit there at the first time.

Q. Yes. A. That isn't when he talked to me. When he first questioned me, why, he didn't take anything then.

Q. That was at Mount Dora, that he questioned you? A. That was at Mount Dora.

Q. That was the second time he had been down there? A. No, that was the first time.

Q. The first time? A. But it seems as though he came in there after that and questioned Dad and then took quite 6440
a bit of stuff.

Q. Well, you didn't see him take anything then? A. No, sir, I believe Dad handled that himself. Q. Then when you went North to New York, you took some stuff with you? A. Yes, sir.

Q. And then after you left New York; after examination by United States Attorneys, and you got back to Mount Dora, you then transmitted further documents, did you not? A. Yes, sir.

Q. By mail? A. No, sir, Mr. Winstead was waiting for me when I got home.

Q. Oh, is that so? So you gave them to him? A. Yes, sir, personally. 6441

Q. Now, then, about this ledger, I show you a document that has been marked Amici Exhibit 213, entitled "Expenses", and I also show you a document consisting of three sheets, which I will ask the reporter to please mark Amici Exhibit 233 for Identification. Now, are these two documents, 213 and 233 for Identification, the ledger that you kept?

(Three sheets entitled "Income", prepared by Wilmer C. Stokley, were marked Amici Exhibit 233 for Identification.)

A. Yes sir.

6442 *Wilmer C. Stokley—For Amici Curiae—Direct*

Mr. Harris: Looks more like a journal than a ledger.

Mr. von Holst: I was going to inquire about that.

The Witness: I will have to plead guilty of ignorance on that, because I worked in a factory and I had forgotten just about everything that I ever learned on accounting.

Mr. von Holst:

Q. Well, at any rate, Mr. Stokley, when you before spoke
6443 of a ledger which you kept—— A. This is it.

Q. —you were talking about these two documents that I just showed you, is that right? A. These, yes, sir.

Q. You had those in mind? A. Yes, sir.

Mr. Harris: Are those the originals?

By Mr. von Holst:

Q. That is, 233 for identification and 213, is that right? A. Yes, sir.

Q. Now, are those all in your writing? Take your time and look through them both.

6444 (Amici Exhibit No. 213 and Amici Exhibit No. 233 for Identification were shown to the witness.)

A. Yes, sir, these are in my writing.

By Mr. von Holst:

Q. Well, now, you have been looking at 213. Now, will you look at 233 for Identification and see whether that is all in your writing? A. Yes, and nobody else knew what they were about.

Q. Now, referring to these two documents, 233 for identification and 213, how did you come to make these? A.

When I went home I—as I have told you—I decided that I was going to try to bring order out of chaos.

Q. That is when you went home in October, 1937? A. 1937, yes.

Q. Right. A. And I was going to try to keep track of everything that came in and everything that was paid out, and see if we could get the groves on a paying basis. That was my sole idea.

By the Master:

Q. Were those pages part of a book at any time or were 6446
they just loose sheets? A. I bought a whole book of these, you see, they came in a pad, that is how they came, in a pad, and I just tore them out, I kept them in the pad for a while, and then I got so many of them there, and if I am not mistaken parts of these are duplicates, where I started keeping them, and then I thought I would try to make a better list of them and I tried it again.

Mr. Harris: Well, that is what I want to know.

By Mr. von Holst:

Q. I want to ask you——

Mr. Harris: Are these all the papers, all the 6447
sheets, that he ever kept?

The Witness: They are all that I ever kept.

By Mr. von Holst:

Q. These that we have before us, Mr. Stokley, 233 for Identification, this batch that is entitled "Income",—— A. Yes.

Q. —and this batch, Amici Exhibit 213, entitled "Expenses", are those all the ledger sheets that you ever kept down there?

Mr. Harris: Or made?

By Mr. von Holst:

Q. Or made, of this kind? A. Yes, sir, that is all that I ever made of this kind.

Q. Now,—— A. I am not sure about that ledger there, that was a—that was kept by my mother prior to the time that I came home.

Q. You are talking now of Amici Exhibit 232 for Identification,—— A. Yes, sir.

Q. —in your last answer? A. And I don't know whether I made a few entries in there, just at the time that I came
6449 home, or not, before I started Exhibits 213 and 233, but you can see if my handwriting is in there and can tell right off.

Q. Yes. Now, coming again to 213, this seems to cover 1938 and down to an entry on the last page which seems to be July 24, 1939. A. Yes.

Q. You will notice that on the last page the dates are mixed up a little bit. A. Yes.

Q. Now, is that the last entry that you made, that July 24, 1939, is that as far as you carried that account? A. It could be, sir, I would have to check through it to be sure that that was, but I imagine that is the last one that I made.

Q. Well, at any rate, you did not make any further——
6450 A. I believe that is the last entry that I made.

Q. Now, did you make these entries, Amici Exhibit 213——

The Master: May I ask, I think you marked it for identification?

Mr. Harris: No.

Mr. von Holst: If the Master please, this one that I am asking him about now is entitled "Expenses"

The Master: Well, I didn't want to get them mixed up with the two exhibit numbers, that was all.

Mr. von Holst: Oh.

The Master: This is Exhibit No. 213?

Mr. von Holst: 213. That is in evidence, yes,

The Master: Very good.

Mr. von Holst: Entitled "Expenses".

By Mr. von Holst:

Q. Did you make these entries which begin on the first page, on September 1st, 1938, and the last entry that we have been able to find being that of July 24, 1939, did you make them as of the dates they bear or did you make them all at one time, or just how did you compile this thing? A. The ones that I possibly could, I entered them as soon as 6452
the expense was paid, or the income—as soon as the expense was paid. If I couldn't do that I tried to save a record of the transaction and enter it at later times. As you will see, that is what happened towards the last of the entries there, where I got the dates mixed up.

Q. And is that true also of Amici Exhibit 233 for Identification? A. I tried to do the same thing there, too, sir, but as you probably see, I kind of messed them up, too.

Q. Well, Mr. Stokley, it looks to me, just looking at these documents, as if they were all made at the same time? Is that wrong? A. It might be on part of them. You see, as I was telling you, I made them and then tried to go back and 6453
do a better job. That is what might tend to make them look all like they were written at the same time.

Q. Well, do you mean that you recopied them? A. Yes, sir.

By Mr. Harris:

Q. These are not the original entries, then, at all? A. I think you have the originals and the ones that I recopied there. If you will let me look at them just a minute I will try to figure it out.

(The witness examined the papers.)

6454

By Mr. von Holst:

Q. Mr. Stokley, these are the only yellow sheets of that kind that we have. A. Yes, sir, they are the only ones that I made out, too.

Q. They are the only ones that you made out? A. Yes, sir, but the point that I am making is that I started off and I might have had the dates mixed up, and then I started back through to try to do a good job of it, but I will tell you in just a minute——

Q. Just take your time. A. —if I can distinguish here.

6455

(The witness examined the papers.)

The Witness: Evidently I must have copied these off and these are the papers as I corrected them and I must have thrown the others away.

By Mr. Harris:

Q. These are not the original entries? A. To the best of my memory, here, that is what I did, I copied these off.

—Q. Well, these are not the original entries? A. As far as I know, they are not.

Q. That is your best recollection? A. Yes, sir.

6456

By Mr. von Holst:

Q. These are what you kept to be your record of the business? A. Yes.

Q. And—— A. But whether——

Q. What you threw away, you transferred the entries from what you threw away on to these two exhibits, is that right? A. On to these, yes.

Q. And you—— A. I think I had my trouble in the expense account.

Q. And you kept these two exhibits as your permanent record of the business, is that right? A. Yes, sir.

Q. Now, did you prepare both these exhibits, 233-for identification and 213, before Mr. Winstead first contacted you or your father? A. Oh, yes, sir.

Q. That was all done before he came down there, is that right? A. Yes, sir, I am sure.

Q. And before you knew of any investigation of anything? A. Absolutely.

Q. Well, your last entry here is July 24, 1939, as far as I have been able to see.

Mr. Harris: Not his last, but his latest.

Mr. von Holst: His latest entry in date. 6458

By Mr. von Holst:

Q. Your latest entry in date—— A. Yes.

Q. —is July 24, 1939? A. I thought that——

Q. Now, hadn't you heard of some investigation before that entry was made? A. No, sir, I believe that it was after that that Mr. Winstead came down there. In fact, I am sure of it.

Q. Well, had you heard of an investigation from any other source than Mr. Winstead before that—from your father? A. I don't believe that I had, sir.

Q. Well, you knew Judge J. Warren Davis, did you not? 6459
A. Yes, sir.

Q. You have known him for a great many years? A. Yes, sir.

Q. Didn't you hear of an investigation which the Government was making from Judge J. Warren Davis before July, 1939? A. Well, now,—yes, sir.

Q. And when did you first learn of the investigation from Judge Davis? Let me ask you, first, Judge Davis was in Mount Dora in February of 1939, was he not? A. I believe he was, yes, sir.

Q. And in March? A. Yes, sir.

Q. And wasn't it then that you learned of the investigation, from—— A. That is——

Q. —him? A. That is when I tie it up now, yes, sir.

Q. During that time, that he was down in Mount Dora, in February and March of 1939? A. It was right around in that time somewhere.

Q. Now, how nearly can you fix the time when you first learned of it? Was it toward the end or the beginning of his visit there? A. Well, I couldn't tell you about that, sir. His visits were so short that we didn't have very much time to distinguish that.

6461 Q. I see, but it was on that visit and it was either in February or March, 1939? A. I believe that that was when it was, yes, sir.

Q. And what did he tell you, to the best of your recollection? A. I don't know how I heard of it, sir, whether Dad told me or whether the Judge told me.

Q. Well, what were you told? A. I was told that there was an investigation of him.

Q. An investigation into what? A. I didn't know about that.

Q. Just an investigation? A. Yes, sir.

Q. The United States Government was investigating? A. Yes, sir.

6462 Q. And you didn't know what they were investigating? A. No, sir, I didn't, but, of course, anyone can have their own ideas.

Q. Well, what did you think the investigation was into? A. I just thought it was into his records and what he had done.

Q. Who? A. The Judge.

Q. Judge Davis? A. Yes, sir.

Q. You didn't think that it involved your dad at all at that time? A. Well, I didn't know about that, I didn't really know how to tie it up.

Q. Well, did you know at that time that a Mr. Kaufman had loaned money to redeem your dad's property at Mount Dora? A. Yes, sir.

Q. When did you first learn of that? A. When I went home.

Q. That was in October, 1938? A. '37.

Q. '37? A. Yes.

Q. You hadn't known of it before you went home? A. I don't believe I had.

Q. Now, also, when you got home, in October of 1937, did you also learn that Judge Davis had loaned your dad 6464
four thousand dollars? A. I learned that at a later date, I don't know just exactly when I learned it: I thought at first that the one loan took in everything, but it didn't.

Q. Well,—— A. Because the loan from Mr. Kaufman was just taking care of what the City of Mount Dora was trying to take away from Dad.

Q. Well, yes, you mean what the City of Mount Dora had already foreclosed on? A. Well, they had a master's deed, I believe.

Q. Yes. A. Whatever they call it.

Q. Well, you learned of this four thousand dollar loan from Judge Davis to your dad before you learned of the in- 6465
vestigation, didn't you? A. Oh, yes, sir.

Q. Now, after you learned of this investigation in February or March of 1939 did you drive North with Judge Davis? A. Yes, sir.

Q. And where did you drive from? A. From Mount Dora to Trenton.

Q. All the way? A. Yes.

Q. Was that in his car? A. Yes, sir.

Q. And what was the occasion of your going North at that time? A. As I remember, I was going North to see a girl friend.

6466 Q. Did you have any discussion with Judge Davis about this investigation on the way up in the car? A. I don't believe I did, sir.

Q. Didn't say anything about it? A. No, sir, we didn't —and I still couldn't place it in my mind, when I heard about it, the investigation.

Q. I thought you said that your best recollection was that—— A. It is.

Q. —it was in February or March. A. Yes, it is, but I still can't place the circumstances, and how I heard about it.

6467 Q. Well, you had heard about it before you drove North with Judge Davis, hadn't you? A. To the best of my recollection, I had, sir.

Q. Because he was driving North from his vacation, going home? A. Yes. I tried my best to keep all these records as nearly as possibly I could together, right in this pad that I spoke of, tried to keep everything as near to it as I could, and keep all records of the expenses, so that I could enter them at a later date.

Q. And by that, "these records", you are referring again to—— A. 213——

Q. 213? A. And 233.

Q. And 233 for Identification? A. Yes.

6468 The Master: May I ask the stenographer to read that last answer? I didn't quite get it.

(The answer was repeated by the reporter as follows:

"A. . . . I tried my best to keep all these records as nearly as possibly I could together, right in this pad that I spoke of, tried to keep everything as near to it as I could, and keep all records of the expenses, so that I could enter them at a later date.")

The Witness: I would still like to apologize for the records.

By Mr. von Holst:

Q. Well, Mr. Stokley, referring again to these two exhibits, 213 and 233 for Identification, you got the data for making those entries from where? A. You mean the expenses?

Q. Yes, you have got a lot of items here, for instance, Burton's garage, Riley Grocery Company, Taxes, Pet Grove, —I am just reading them at random, now—you got those 6470
entries to enter on this, what you call this ledger, from bills,—— A. Yes, sir.

Q. —did you? A. Yes.

Q. From invoices, receipts? A. That is right.

By Mr. Harris:

Q. Checks? A. Checks.

By Mr. von Holst:

Q. And also from cancelled checks? A. Yes, sir.

Q. Check stubs? A. Yes. 6471

Q. Now, when you came North with Judge Davis—and you say that was when? A. That was in March, '39, I believe.

Q. —did you then go over with him the question of your father's payments to him on the four thousand dollar debt? A. Yes, sir.

Q. Did you go over that with Judge Davis personally? A. I think it was Judge Davis and Miss Kliesh.

Q. Both of them? A. Yes.

Q. And where? A. That was in his office, in Trenton.

Q. At Trenton? A. At Trenton.

6472 *Wilmer C. Stokley—For Amici Curiae—Direct*

Q. Now, did you take any records with you when you went North with Judge Davis? A. I don't recall taking any, sir.

Q. So you had nothing to show either Miss Kliesh or Judge Davis about payments which your father had made to Judge Davis in the past? A. Only what I knew of.

Q. That is, you were relying on your memory? A. Yes, sir.

Q. Now, did Judge Davis or Miss Kliesh show you any records? A. As I remember, we wrote down the figures of what Dad had paid and of what he owed, and compared the
6473 two, and saw where he owed interest and principal.

We also had a list of the fruit that Dad had mailed for the Judge there, and I think that was credited on his account.

Q. Well, what I am getting at is, as I understand it, you had no memoranda or anything with you, is that right? A. I don't recall any now, sir.

Q. Did Judge Davis show you any books or any records, or did Miss Kliesh show you any books or any records showing payments which your father had made on his loan from Judge Davis? A. Well, that is what I meant when I said we wrote down what had been made there.

6474 Q. Well, now,—— A. I don't recall seeing any record that they had.

Q. That is what I want to get at. In other words, you sat down with Miss Kliesh and Judge Davis and put down to the best of your ability what payments had been made, is that right? A. That is what I think, yes, sir.

Q. You tried to recall with Judge Davis and Miss Kliesh what payments your father had made, and you made a list of them, is that right? A. Yes, I don't recall having any regular list that we had made.

Q. And you don't recall their showing you any regular list, do you? A. No, sir, I don't.

6475

Q. Now, did you make up a list at the time in your conference with them? A. As best as I can remember we can—we made up a list and showed the balance of what Dad owed, crediting him with what payments he had made and fruit that he had mailed for them.

Mr. von Holst: I am referring to this one that is in the record (indicating).

Mr. Harris: What is the number?

Mr. McCullough: The number of the exhibit.

Mr. von Holst: The number of the exhibit, 230.

6476

By Mr. von Holst:

Q. Mr. Stokley, I want to show you a photostat of a page that is in a book that Judge Davis produced, that had a black cover,——

Mr. Harris: Which Miss Kliesh kept.

By Mr. von Holst:

Q. —which Miss Kliesh kept, and which Miss Kliesh testified that the entries on page 21—which is Amici Exhibit 230—were all in her handwriting. Now, can you state whether that is a list of payments which you and Miss Kliesh and Judge Davis made up at the time, as you have testified? 6477

Mr. Harris: Well, wait just a minute, I think it is a little unfair to the witness not to show him the book.

Mr. von Holst: We haven't got the book.

Mr. Harris: Well, where is it?

Mr. von Holst: It was returned to Judge Davis.

Mr. Harris: Well, I think the witness ought to know what the other witness testified to, this was part of a book of accounts——

6478 *Wilmer C. Stokley—For Amici Curiae—Direct*

Mr. von Holst: I thought I had explained that.

Mr. Harris: —which she kept.

The Witness: That is what I understand.

Mr. von Holst: I said to the witness that the book had a black cover. I will describe it further—see if you check my description, Mr. Harris—a book about twelve——

Mr. Harris: I don't think the witness ought to be interrogated about this unless you have the book here.

The Master: Well, if he has any recollection he

6479 can answer.

Mr. von Holst: It is a black book about the size of that sheet that you see there.

The Witness: I don't recall the book, sir.

By Mr. von Holst:

Q. You don't recall the book? A. No, sir.

Q. Now, do you recall having seen this sheet, Amici Exhibit 230,—— A. No, sir.

Q. —at the time of your conference with Judge Davis and Miss Kliesh? A. No, sir.

6480 Q. Have you ever seen that sheet before? A. I don't recall having seen this sheet before.

Q. Of course, I should have called your attention to the fact that some of these entries are in '41. A. Sure.

Q. You couldn't have seen them. But some of these entries, you see, are in '36, '37, '38 and '39. You say that you did not see that list at that time? A. I don't recall seeing the list. We made a list and it included this $197.50, and I believe this cash of $15.

Q. Appearing on Amici Exhibit 230? A. A payment of $400. in 1938.

By the Master:

Q. Did it include the payments in this list down to and including the fifteen dollar cash item? A. It included the payments of February 28th, 1938, for four hundred, and for March 3rd, 1939, by credit for fruit, of $197.50. That is what the list composed that we made up.

By Mr. Harris:

Q. And fifteen dollars in cash? A. Fifteen dollars in cash

6482

By the Master:

Q. Only three items on that list? A. Yes, sir.

Q. Did not include these previous, earlier items which are shown here in this book? A. No, sir, I don't know a thing about those. See, they were made prior to the time that I went back home.

By Mr. von Holst:

Q. Did you then at that time compute the balance that was due from your father to Judge Davis on this loan? A. I don't recall whether we did the addition and subtraction and found out the exact amount of it or not.

6483

Q. Yes. A. But as far as from my standpoint as a bookkeeper, I wanted to see what we had credit of, and that was what our list composed there, the four hundred the 197.50, and the fifteen.

By Mr. Harris:

Q. That is, during the period that you had been with your father? A. Yes, sir.

Q. That is all you were interested in? A. That was what I wanted.

Q. The credit since you had gone with your father? A. Yes, sir. You will see that the next entry is January 4, 1941, and I left in February, 1941, and I didn't—about that time I wasn't keeping the records at all.

Mr. von Holst: Yes.

The Witness: I was getting ready to leave home.

By Mr. von Holst:

Q. Did you make any memorandum of the balance that was then owing from your father to Judge Davis on this
6485 four thousand dollar loan? A. I believe we did, sir, but I don't recall what they amounted to.

Q. And you have no record of it, no paper or memorandum of it? A. No, sir, I don't believe I have.

Q. Now, then, in 1941 you came up to New York to be examined by Mr. Gahagan and Mr. Lauritano, is that right? A. Yes, sir.

Q. Now, prior to your coming up you had made a search for records? A. Yes, sir.

Q. I was mistaken in the year. That was 1940, I believe, instead of '41, that you came up? A. Isn't that what you said?

6486 Q. I said '41, I am told. A. I beg your pardon, I had that in my mind as what you meant.

Q. It was 1940? A. Yes, sir, I was married about a month prior to the time I came up.

Q. I show you a letter, Mr. Stokley, signed W. C. Stokley, dated March 7, 1940, and written to Mr. Walter Gahagan, Jr., Assistant Attorney General, New York, New York. Is that your signature? A. Yes, sir.

Q. And this was written after you had been examined by Mr. Gahagan and Mr. Lauritano in New York, is that right? And take your time and read it. A. Yes.

Q. And refresh your recollection.

(The witness examined the letter.)

Mr. von Holst: Now, I would like to offer this letter in evidence as Amici Exhibit 234.

(Letter dated March 7, 1940, from W. C. Stokley to Mr. Walter Gahagan, Jr., was marked Amici Exhibit 234.)

By Mr. von Holst:

Q. Mr. Stokley, in the last part of this letter, the last three lines, it says: 6488

"Also, the income sheet showed income of quite a bit less than the expenses."

Now, it is a fact, isn't it, that the United States Attorneys had asked you to prepare a list of total income and also total expenses for certain periods? A. I don't remember. I testified up there as to the totals.

Q. Well, maybe I can refresh your recollection further. I show you a document, a photostat of a document marked Amici Exhibit 210-A and 210-B for Identification.

The Master: Is it in the record?

Mr. von Holst: No, this one is not, if the Master please. 6489

By Mr. von Holst:

Q. This photostat, Mr. Stokley, there are two sheets in the photostat, but they are the front and reverse of one sheet of paper. A. Oh, I see.

Q. You see this "A" for Identification, 210-A for Identification,— A. Yes.

Q. —is the letterhead of C. L. Stokley & Son. A. Yes.

Q. And this sheet, 210-B for Identification, is the reverse side of that sheet. A. Right.

Q. Now, let me ask you if this document, 210-B for Identification, is in your handwriting? A. Yes, sir.

Q. Now, referring to 210-A for Identification, do you recall that this GJ 41, and then underneath it 3-4-40, shows that that was introduced before the Grand Jury? A. I don't get it.

Q. Well, was this document, this statement of expenses,— A. Oh. . .

Q. —shown to the Grand Jury, to your knowledge? A. I don't recall about that, sir. I believe I showed them a total;

6491 but I am not certain about that.

Q. All right. A. I remember that I couldn't find these sheets.

By Mr. Harris:

Q. Referring to what, 213 and 233? A. Yes, 213 and 233 —and I believe that I had made that statement for my own satisfaction, trying to see what had—what the totals of the whole business were.

Q. Referring to 210.

By Mr. von Holst:

6492 Q. By "that statement" you mean this document, 210-B? A. Yes, sir.

Q. You had taken that up with you when you went, had you? A. I believe I did, sir. I am not certain.

Q. Or did you mail it to them after you got back?

Now, wait a minute, did you testify before the Grand Jury when you went up in February, 1940? A. Yes, sir.

Q. And did you testify before you were examined by Lauritano and Gahagan? A. No, sir, I was examined by them, and then before the Grand Jury, and then by Lauritano and Gahagan again.

Q. I see. Well, now, do you remember whether you had this document, 210-B, with you when you went up? A. I believe I did, but I am not certain, sir.

Q. Well, where did you get the items that appear on this document, 210-B? A. Well, they come from these sheets here, I believe.

Q. By "these sheets here" you mean—— A. 213.

Q. —the ledger sheets, 213,—— A. And 233.

Q. —and 233 for Identification? A. Well, that would come from 213.

Q. In other words, by "that" you mean—— A. Sorry. 6494

Q. —210-B, is that right? A. Yes, sir.

Q. 210-B, the items there came from—— A. 213.

Q. 213? A. Yes, sir, I believe I made the same statement for the income.

Q. Yes. Now, did you in preparing 210-B go to other items besides this 213, or did you make it entirely from 213? A. Well, I made it as nearly as I could from the records of the expenses that had come into my possession.

Q. Well, isn't it a fact that Winstead had taken the ledger sheets——

Mr. Harris: 213.

By Mr. von Holst: 6495

Q. —before that time? 213. A. Before this? Before 210?

Q. Before you made up 210. A. Before 210-B was made up?

Q. Yes. A. No, sir. You see the letter there, it states that I found these after I returned home, in 1941.

Q. Which letter are you referring to, Amici Exhibit 234? A. Yes, sir.

Q. Where does it say that? A. "Also, we found the ledger. It was underneath stuff that had been piled up a long time."

Q. Now, that reference, you say, is to this ledger, 213 and 233 for Identification? A. Yes, sir.

Q. Now, the date of that is March 7, 1940,—— A. Yes, sir.

Q. —is that right, that letter? And was this 210-B made up after you found the ledger, as shown in the letter of March 7th? A. I believe that it was made up before I went to New York, in 1941.

By Mr. Harris:

Q. '40? A. 1940.

6497 *By Mr. von Holst:*

Q. Well, my difficulty, Mr. Stokley, is that it would appear that you hadn't located the ledger until after you went back, as indicated by your letter of March 7, 1940? A. Yes, sir.

Q. Isn't it possible that after you got back and found the ledger, as your letter, Amici Exhibit 234, indicates, you then made up this "Expenses", 210-B?

Mr. Harris: Now, just a minute, I don't think it is fair to do that without showing this letter, 210, was offered before the Grand Jury prior to the time the
6498 letter was written.

The Master: Well, you have it there, haven't you, Mr. von Holst?

Mr. von Holst: Yes.

By Mr. von Holst:

Q. The letter says that you returned home, you arrived home yesterday; that will be March 6th, but the document apparently was introduced before the Grand Jury on March 4, 1940. A. Yes, sir.

Mr. Harris: Well, that is just what he says.

By Mr. von Holst:

Q. So you did have—well, do you remember when you found the ledger? Did you have the ledger before you went up there? Had you found it before you went up there? A. No, I plainly say here that I found it when Mr. Winstead and I were ransacking to find everything that Mr. Gahagan could possibly want.

Q. Well, then, isn't it evident that you didn't make this 210-B from the ledger? A. I believe it was made from the ledger.

6500

Q. Well, couldn't it have been made from invoices and other stuff like that, check stubs? A. Part of it could be, but I believe if you will add the items, such as taxes, and storage at Norfolk, and repairs to negro houses, and fertilizer, you will find the totals in here, to the best of my knowledge.

Q. "in here", meaning in the ledgers? A. In the ledger, 213.

Q. Well, now, what is your best recollection, Mr. Stokley, as to whether you took this document 210-B with you when you went up to testify? A. Well, I believe I took it up with me.

Q. You mean you think that you had that made up when you went up North to testify before the Grand Jury, is that right? A. Yes, sir, as I remember I found that among the papers that Mr. Gahagan asked me for when he called me long distance from New York.

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Q. Then you think that you had made that up before Mr. Gahagan called you? A. Yes, sir, I believe I had. You see, it is only to 1938 there. I believe I had the season there from September 1st to September 1st.

Q. It says 9-1-37 to 9-1-38. A. Yes. I don't recall exactly when it was made up, but it was made prior to my trip.

By Mr. Harris:

Q. In other words, if I understand it, this 210 was prob ably made in 1938, is that right? Is that—— A. Yes, si around in 1938 or 1939.

Q. What was the date, what period did it cover? A. I covers the period of 9-1-37 to 9-1-38.

Q. Then it would be your recollection that that was mad in the latter part of '38. A. Yes, sir, it would.

6503 *By Mr. von Holst:*

Q. And it is your testimony that this was not mad specially for the purpose of having something to show to th Grand Jury? A. I am positive that it is not.

Q. That you had made this some time previous? A. Ye

Q. Referring, by "this", to 210-B.

Now, then, I want to show you two documents, marke Amici Exhibit 209-A and 209-B, and ask you whether thos are in your handwriting.

(The witness examined the papers.)

6504 A. Yes, sir, they are in my handwriting.

By Mr. von Holst:

Q. All the entries are in your handwriting, is that right A. Yes, sir.

By Mr. von Holst:

Q. All the entries on 209-A and 209-B are in your hand writing, is that right? A. Yes, sir.

Q. Now, referring to both these documents, 209-A and B, did you get the data from various sources, that is, from check stubs, bills and so forth? A. Yes.

Q. For making up these two? A. Yes, sir.

Q. Now, on 209-B there is an entry: Interest paid Judge Davis, 2-28-38, $400. A. Yes, sir.

Q. That entire entry is in your handwriting, I understand? A. Yes, sir.

Q. Now, can you tell us where you got that entry from in making up this list, Amici Exhibit 209-B? A. A check was given Judge Davis for the four hundred dollars. 6506

Q. Did you make out that check? A. I believe I did.

Q. And you entered the check in the stub book, that is to say, you filled out the stub—— A. Yes.

Q. —of the check yourself, did you not? A. I am very sure that I did.

Q. And you have called that interest paid, on 209-B, it says "Interest paid Judge Davis", and then gives the date, 2-28-38? A. Yes, sir.

Q. So you must have obtained that from either a cancelled check or the stub in the check book, is that right? A. Yes, sir.

Q. Now, where did you obtain that from? Did you get it from the cancelled check or from the stub? A. Well, I might have gotten it from my other—I imagine I got it from the stub. 6507

Q. Do you recall—— A. Trying to look over and see what checks were paid.

Q. Do you recall ever having seen a cancelled check for this item of four hundred dollars? A. I imagine I saw it when it came back from the bank.

Q. Well, now, is that just assumption, or do you really remember seeing it? I just want your best recollection. A. I believe I saw it.

Q. And where it says "Interest paid", was that on the check, the cancelled check, or was the cancelled check marked "Interest"? A. You mean was "Interest" written on the check?

Q. That is what I want to know. A. I believe it was. I was trying to keep everything just as straight as I could, and tried to have everything down.

Q. And was "Interest" also written on the check stub? That is to say, did you write "Interest" on the check stub? A. I believe I did. In fact, I am certain I did.

6509 Q. Who told you, or where did you get the information that that was interest? A. Well, that was what Dad was paying at that time. He didn't have money enough to pay any principal. He was trying his best to keep up on interest.

Q. Well, interest on what? A. That was interest on the four thousand dollars.

Q. Now, what interest was being paid on the four thousand dollar loan, what rate? A. I believe it was eight per cent.

Q. It was eight per cent? A. I never saw the exact figure, but I believe that was what it was.

Q. And interest at eight per cent on four thousand dollars for a year is how much? A. It is quite a bit, it is—I imagine

6510 that would be—it would be three hundred and twenty dollars.

Q. Yes, it isn't four hundred, is it? A. No, sir.

Q. Now, isn't it a fact that that interest of four hundred dollars was a semi-annual payment on the ten thousand dollar loan at eight per cent?

Mr. Harris: You mean the Kaufman loan?

A. I don't believe it was, sir, because Dad hadn't been able to keep up his interest and he was paying as much as he could at any time. As you will recall, or in looking through his books, you know, the things aren't kept in an orderly fashion, because he didn't have the money to do things right, and he paid when and if he could.

By Mr. von Holst:

Q. Four hundred dollars is eight per cent for a half year's interest on ten thousand dollars, isn't it? A. Yes, it is.

Q. And you still say that was not a payment on the interest on the Kaufman loan? I want your best recollection on it. A. I don't have any idea that it is, sir. That was paid to Judge Davis, as interest.

Q. Did you when you wrote the check, did you inquire of your father anything about how it was four hundred dollars? A. I don't recall, but the main thing would probably be that that is all that we had at that time. 6512

Q. Did he tell you to write the check, or did you do it on your own initiative? A. No, sir, I think I was told to write the check, because I didn't have the authority to go and do anything like that.

Q. Did you ask him whether it was on principal or interest? A. I think that was discussed at the time, when I was told to put that on the check?

Q. And you say you were told, your father told you to put "Interest" on the check, put the word "Interest" on the check? A. I don't know whether he told me, or whether they discussed it, and it was called interest, and I put it on there.

Q. Well, you say "they discussed it"; who was talking 6513 about it? A. Well, I mean the three of us.

Q. You and your father and who? A. And Judge Davis.

Q. Was Judge Davis present when this check was discussed? A. He was present when it was written, yes, sir.

Q. He was present when it was written. And where was this? A. That was in Mount Dora, at our home.

Q. At about the time of the entry, that is to say, on about February 28th, 1938? A. Yes, sir.

Q. And you and your father and Judge Davis were discussing this matter? A. Yes.

6514 *Wilmer C. Stokley—For Amici Curiae—Direct*

Q. Now, can you tell us, to the best of your recollection, what was said by each one, just the best of your recollection, as to the substance of what was said on that occasion? A. Well, Dad hadn't made any payment on interest in quite a while, and this was what he was going to do to make the payment.

Q. And he said so? A. Why, yes, sir.

Q. And did Judge Davis ask him to pay the interest? A. I think he had been asking for some, yes, sir.

Q. Well, Mr. Stokley, right at that conversation did
6515 Judge Davis mention that he wanted interest? A. I don't recall that, but what I mean is, that is all the money Dad had.

Q. Yes. A. He didn't have enough to make a payment on the principal.

Q. I am trying to get the conversation at that time, to the best of your recollection. A. Well, I don't recall that.

Q. Well, it was stated, was it, that this payment was to be on interest? A. Yes, sir.

Q. And Judge Davis thoroughly understood that? A. Why, I am sure he did.

Mr. von Holst: Now, I ask that this stub book be marked Amici Exhibit 235 for Identification.

6516 I am sorry, of course we have no photostat of this, it is a physical exhibit.

(Check stub book of the Tavares Bank, with stubs dated from 2-12-38 to 4-6-1938, was marked Amici Exhibit 235 for Identification.)

The Master: The stub book checks on the Tavares Bank?

Mr. von Holst: I was just going to ask him about it, or identify it.

The Witness: That is what it is, yes, sir.

By Mr. von Holst:

Q. I show you Amici Exhibit 235 for Identification and ask if you can tell us what that is. Just take your time to examine it.

(The witness examined the book.)

A. This is the stubs of a check book of the Bank of Tavares.

By Mr. von Holst:

Q. That is your father's account in the bank? A. Yes, sir. 6518

Q. You recognize that as a stub book which represents a check book which your father used in the business, is that right? A. Yes, sir.

Q. Now, are these entries all in your writing? Just take your time and look through them. A. That is my handwriting (indicating).

The Master: You mean on the stubs, do you?

Mr. von Holst: Yes, on the stubs. I should have said that.

The Witness: This is Mr. Burton's handwriting (indicating).

Mr. Harris: The second one. 6519

Mr. von Holst: That is on the second one.

Mr. Harris: How about the figures?

The Witness: All of those are his figures there. I believe that is my balance figure, but he filled the stub out.

This was filled in by the stenographer at the packing house.

Mr. Harris: That is the third one.

By Mr. von Holst:

Q. That is the third one? A. Yes. She seems to have filled in all the figures on that.

Q. Go right ahead. A. And the fourth one, I filled in the figures; and the fifth one, I filled in the figures there from records. You will notice this was a counter check, that was issued by Dad, and I tried to balance up the best I could.

Q. Just go right through them, Mr. Stokley. A. All right, sir, the next——

Q. That is the sixth one? A. The sixth, the sixth was filled in by me and my father.

Q. Whose figures are your father's? A. The 7.50.

Q. All the other figures are yours? A. Yes.

6521 Q. And the words "Orange Bags", the words "Orange Bags", are they yours or your fathers? A. That is mine.

Q. All right. A. That is another case where he filled in a check away from there and I found from him later what it was for.

Q. Now, the seventh? A. That is filled in by me.

Q. All of it? A. Yes.

Q. And the eighth? A. That was filled in by me, too.

Mr. Harris: That was marked "Void".

Mr. von Holst: Marked "Void".

By Mr. von Holst:

Q. The ninth? A. That was filled in by me.

6522 Q. The tenth? A. Let's see,——

Q. Oh, going back to the ninth. A. —going back to the ninth, the $172.85 was filled in by the secretary at the packing house.

Q. All the other figures are yours? A. Yes.

Q. The writing is yours? A. Yes, sir.

Q. This is the tenth, I believe. A. That is my handwriting.

Q. Eleventh? A. That is my handwriting, all but the $132.93, I believe, I don't—that might be mine, too. We can compare it on this previous page—yes, I wrote the whole thing.

Q. All right, this is the twelfth. A. The twelfth, that was filled in by me, too.

Q. Now, the next item is headed at the top 2-28-38. Then it says "Express Sordoni Order", is that right? A. Yes, sir.

Q. Now, are all the entries on that stub in your writing? A. Yes, sir, I believe they are.

Q. And including this last, balance brought forward, carried forward, 531.82? A. Yes, sir.

Q. The next one is entitled at the top 3-1-38, Mt. Dora Growers Coop, is that right? A. Yes, sir.

Q. It has the word "Void" written across it, in ink, and at the bottom it says "deposit". Now, will you state as to whether all that appears on that stub is in your handwriting? A. Yes, sir, it is. 6524

Q. Everything? A. Everything.

Q. Now, I call your attention to the fact that the balance on the immediately preceding stub is $531.82, is that right? A. Yes.

Q. And on the stub immediately following in this book, which is entitled, headed at the top 3-1-38, the balance is $131.82, is that right? A. Yes.

Q. Now, there is before the "1" of the 131, there is an ink mark, which I am now indicating with my pencil. That is the dot of the "i" in the word "Void", is it not? A. I believe it is. 6525

Q. Well, you have no doubt in your mind that the amount carried forward or brought forward is $131.82, is that right? A. Well, that is what it seems like from here.

By Mr. Harris:

Q. A difference of four hundred dollars? A. Yes, sir.

By Mr. von Holst:

Q. And, therefore, it is perfectly evident, isn't it, that there is a missing stub in which there was a check written

6526 *Wilmer C. Stokley—For Amici Curiae—Direct*

or entered for four hundred dollars? A. There must have been, yes, sir.

Q. Between the dates of 2-28-38 and 3-1-38? A. Yes, sir, that was the same—that was the same date there, you see, as the other.

Mr. Harris: Is there one torn out there?

By Mr. von Holst:

Q. And I call your attention to the fact, Mr. Stokley, that between those two stubs, the one headed 2-28-38 and
6527 the other, 3-1-38, there is the remnant of a stub which has been torn out. A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. Now, referring to Amici Exhibit 209-B, and to the entry therein, "Interest paid Judge Davis, 2-28-38, $400.00," I ask you if you can say whether that missing check stub in this book, Amici Exhibit 235, is the item appearing on Amici Exhibit 209-B, "Interest paid Judge Davis, 2-28-38, $400.00"? A. Well, I don't know, sir, but that would be the place where it should come right in the stub book.

Q. And as I understood your prior testimony, you do recall that check for four hundred dollars to Judge Davis on that date of February 28, '38? A. Yes, sir.
6528

Q. And you do recall having entered that in the stub book? A. Yes, sir, I did, because I kept track of those the best I could.

Q. Now, do you know anything about how that stub came to be torn out of this book? A. No, sir, I don't.

By Mr. Harris:

Q. Was it in the book when you turned it over to the Government? A. Well, that I don't know, sir. We got these together in such a hurry that I don't know what happened. I mean, I couldn't go through and look at them.

Mr. von Holst: Now on that very point, I think, if the Master please, it should appear in this record that that stub was not in the book when it was presented to Gahagan and Lauritano, as we can make appear from this transcript of the examination.

Mr. Harris: Well, I think that is the subject of proof.

Mr. von Holst: All right.

Mr. Harris: I do notice on your memorandum which you handed us here, March 15, 1938, $400.00, "Stub torn out from book of stubs marked 'G. J. Ex. 43'". Have you got that? 6530

Mr. von Holst: That is this.

Mr. Harris: Oh, I see. Well, March 15th, why do you say March 15th? I thought it was February 28th.

Mr. Poore: That is the date of clearance.

Mr. Harris: Oh, I see, the date the four hundred cleared at the bank.

The Master: Does the record of the bank show that check also?

Mr. Harris: Oh, yes, that check was cleared, it was paid.

Mr. McCullough: That a check was paid. 6531

Mr. Harris: That a check for four hundred dollars——

The Master: Has the check not been produced?

Mr. Poore: No.

Mr. von Holst: It has not been produced and was not among the papers that were examined, that were turned over to the Master by the Internal Revenue man at Jacksonville.

The Master: Are the other cancelled checks represented by the stubs in that book available or have they not been produced?

Mr. von Holst: We have a statement that we wanted to make on the record concerning that. May-

6532 *Colloquy*

be this would be a good time. As Mr. Poore has made the examination I would like to have him make it.

Mr. Poore: Among the papers that were sent up from Jacksonville were bank statements on the Bank of Tavares from October, 1936 to and including December, 1939, with the exception of about three months. Those three months appear on the bank statements which were introduced in evidence during the testimony of Mr. Rogers, the bank man.

6533 Among the papers that were also sent up from Florida were cancelled checks on this account during that period of time.

I compared the cancelled checks against each debit appearing on the bank statements for the corresponding amounts for the corresponding dates and found that all cancelled checks and debit memorandums were produced except those which would correspond with the charge against the bank statements for the dates listed in this statement which I have prepared. For those debits as of the date appearing on this statement no corresponding check or voucher of any kind was produced, and I have prepared this

6534 list and also checked the stub books which were produced to see what information could be obtained from those books as to each of the missing checks. The stubs produced only went back to about March, 1937, and in many of the stub books blank stubs appeared, so that on a good number of these items no identification could be made from the stubs, and I have so stated on this statement.

The Master: Do you want to put this statement on the record?

Mr. von Hoist: We should like that statement to go in evidence and I offer it as Amici Exhibit 236.

subject, of course, to check and correction by counsel for Universal. It would save a lot of time and will save encumbering the record with all these cancelled checks and all these check stub books.

Mr. Harris: Well, we can't consent to that until we have checked it. However, if upon checking we find it substantially correct we will raise no objection to the offer of proof in this fashion, so if you will offer it subject to our checking——

Mr. Thiess: Certainly.

Mr. Harris: —if we find there is nothing to be objected to, we won't object to this form. 6536

The Master: All right, we will admit it subject to checking with counsel.

(Statement entitled "Statement Showing Charges Appearing on Stokley's Statements of His Account in the Bank of Tavares from October, 1936, to and Including December, 1939, for Which No Corresponding Cancelled Checks or Debit Memoranda Have Been Produced, and Showing What, if Any, Check Stub Has Been Found for Each Missing Check" was marked Amici Exhibit 236.) 6537

(Discussion off the record.)

Mr. Poore: I might add that among the cancelled checks is no check to Judge Davis, but there are two checks to Morgan S. Kaufman, one being the six hundred dollar check in May of 1939 which has already been introduced in evidence, and the other a four hundred dollar check dated in 1941. Incidentally, that last check was the only cancelled check produced subsequent to 1939.

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By Mr. von Holst:

Q. Now, Mr. Stokley, it is a fact, is it not, that when you were examined with your father, beginning on February 29, 1940, by Walter Gahagan and Lauritano, that these check stub books, including this one that has been marked for identification as Amici Exhibit 235, were gone through by the United States Attorneys with you? A. You pardon me, but we went through so many things up there, until I just don't recall whether we went through them specifically or not.

6539 Q. Well, let me ask you, don't you recall them asking you about this Sordoni order? A. Oh, yes, sir.

Q. That brings it up, doesn't it? A. That was a headache.

Q. They wanted to know all about that Sordoni order. And referring to the entry on February 28, 1938, in Amici Exhibit 235 for Identification,—— A. Yes, sir.

Q. —does that refresh your recollection? A. Yes, sir, we went all through that order.

Q. And you went all through this check book, didn't you? A. That I— I don't recall exactly, sir. We probably did, but I don't recall specifically. We checked all of the gift lists and ——

6540 Q. Let me ask—pardon me, go right ahead. A. That is all I was going to say, we checked all the gift lists.

Q. Well, didn't they ask you as to each of these check stub books that they went through, whether any entry appeared to Davis and Kaufman, after each one? A. Oh, I believe they did.

Q. Yes, and don't you recall that with respect to this book, 235, in which this Sordoni entry appears, they asked you whether there was any entry showing Davis or Kaufman's name? A. I believe they went through the whole book and asked me about each statement, as to who it was to, and whether it had—to Davis or Kaufman.

Q. And don't you also recall that you answered with respect to this particular book, Amici Exhibit 235 for Identification, that there was no stub in there either to Davis or Kaufman? A. I don't recall, but if it was like that, I made that statement.

Q. Well, do you recall this question being asked you? Let's see if I can refresh your recollection. I am reading from page 43 of this examination that was conducted on March 1st, 1940. It is examination by Mr. Lauritano, and he is questioning you, and he asks these questions:

"Q. All right—will you continue to go through 6542
that book—give me the date of that check stub. A. February 28, 1938."

That is the answer, February 28, 1938. A. Oh, I see.

Q. "Q. How does that check stub read? A. 'Express —Sardoni order'—balance brought forward $288.83—amount deposited $277.61—total $566.44. This check is for $34.62 and the balance is $531.82.

"Q. Now, will you explain what that check stub means—what those notations mean? A. When we sent these boxes to Senator Sardoni we paid the express and this is the check we paid the express with. 6543

"Q. And that has nothing to do with any payment to Sardoni? A. That's right.

"Q. There are no other check stubs with any notations on them that the check therefrom was issued to Kaufman or Davis; is that correct? A. That's correct."

Does that refresh your recollection—— A. Yes.

Q. —of the fact that those questions were asked,—— A. Yes.

Q. —and you answered as I have read? A. Yes.

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Q. So when you testified on that occasion in answer to those questions that were directed to you by Mr. Lauritano, this stub which had the entry of $400.00, interest paid Judge Davis, 2-28-38, was not in the book, was it? A. Evidently it wasn't, sir.

Q. Now, Mr. Stokley, apart from these documents that you have called ledgers, Amici Exhibit 213 and Amici Exhibit 233 for Identification, and the check stub books and the bank statements, there was no other source from which either you or your father could have found payments made to Judge Davis, isn't that right? A. That is the only way
6545 that we could have, except by memory of the thing.

Q. Yes, I mean the only documents? A. That is the only documents.

Q. And the same would be true of the payments made to Morgan Kaufman, wouldn't it? A. Yes.

Mr. Harris: You mean after the—from the date when these ledgers began to be made?

Mr. von Holst: No,——

By Mr. von Holst:

Q. I want to know this, Mr. Stokley, aside from these ledgers, 233 for Identification and 213, and the check stubs,
6546 books that you got, that you had, and the checks—cancelled checks—I should have added that—and the bank statements, you had no other way of knowing from any document what payments had been made to Judge Davis or Mr. Kaufman; now, isn't that right? A. Yes, sir, that is right. I don't recall of any other documents that we might have had.

By the Master:

Q. Do you know of any cash outlay you paid to Judge Davis or Mr. Kaufman except the fifteen dollars you have spoken of? A. No, sir. That is why I tried to keep things in checks, so that we would have a record of them.

By Mr. Harris:

Q. Well, does your answer relate only to the period after you started to work for your father? A. Well, that is what I mean in everything that I say, because the way Dad kept books, I wouldn't be responsible for anything that happened before or after I left.

By Mr. von Holst:

Q. But, Mr. Stokley, it is true, isn't it, that when the Government started to demand documents, you yourself 6548
made search, didn't you? A. Yes, sir.

Q. And you found no book or record or document anywhere that had anything to do with the Davis and Kaufman payments except the bank statements, the check stubs, the checks, cancelled checks and the ledgers, isn't that right. A. Well, I sent everything that I found to them, you see, and my record of it is on here, and it was probably—it was taken from a check stub.

Q. Yes, but you made a search, didn't you, through all your father's papers? A. Yes, sir.

Q. And among the things you were searching for was records of payments made to Judge Davis and payments 6549
made to Kaufman, isn't that right? A. Yes, sir.

Q. And you didn't find anything except the things that I have enumerated, is that right? A. That is right. You see, there was a search made before me, and that was what Dad gave Mr. Winstead.

Q. Yes. A. And then my search, which concluded the whole affair.

Q. Yes, and you found nothing except what I have enumerated? A. That is right, sir.

By the Master:

Q. Your father made the first search and you made the second, is that right? A. Yes, sir, I made the second.

Q. Yes. A. And subsequent searches.

By Mr. von Holst:

Q. Now, before that time, that is to say, before your father made the search, you had never seen any other record, had you, of payments to Davis and Kaufman? A. No, sir, I don't recall of seeing any other record.

6551

By Mr. Harris:

Q. Did you look for any others? A. I don't think I had any reason to, because you will see my record goes—these expenses go back a couple months before I came home, but that is just to try to get the seasonal costs.

Mr. von Holst: Read that last answer, please.

(The answer was repeated by the reporter.)

The Witness: That is why, you see.

By Mr. von Holst:

6552 Q. This ledger, Mr. Stokley, Amici Exhibit 213 and Amici Exhibit 233 for Identification, both started on September 1st, or in September, 1938, didn't they? A. Yes.

Q. Which was a whole year after you got home, almost a year? A. Yes.

Q. Well,—— A. This is what I had reference to, here, you see (indicating).

Mr. Harris: Mention it, describe it.

By Mr. von Holst:

Q. By "this", you mean Amici Exhibit 210-B for Identification? A. Yes, sir.

Q. And that starts on September 1st, 1937 and goes to September 1st, 1938? A. Yes.

Q. Is that right? Now, I show you a check, Mr. Stokley, a photostat of which is in evidence as Amici Exhibit 136—record 2819. This is the Kaufman check. In whose handwriting is this check?

(The witness examined the check.)

A. That is my dad's handwriting, C. L. Stokley.

By Mr. von Holst: 6554

Q. Is the whole check in his handwriting? A. Yes, sir.

Q. Figures and all? A. I think the number of the check is in my handwriting.

Q. Where it says No. 109? A. Yes.

Q. Now, I refer you to a check stub book that I will ask be marked Amici Exhibit 237 for Identification.

The Master: What page is that?

Mr. von Holst: This has not been in evidence yet.

(Check stub book of the Bank of Tavares, with stubs dated from 2-28-39 to 6-22-39, was marked Amici Exhibit 237 for Identification.)

6555

By Mr. von Holst:

Q. Referring to this check stub book, Amici Exhibit 237 for Identification, and to a stub marked at the top 6-18-39, will you state—and underneath that date is written "Kaufman Taxes"—will you state in whose handwriting that is, that whole stub? A. That is in my handwriting.

Q. Including the "Kaufman Taxes"? A. Yes, sir.

The Master: What date is that?

Mr. von Holst: June 18th, 1939, the check being dated May 15th, 1939.

The Master: Yes.

By Mr. von Holst:

Q. Let me ask you, Mr. Stokley, do you know why the stub bears date June 18, 1939, and the check is dated May 15, 1939?

Mr. Harris: Well, is it the stub for the same check?

Mr. von Holst: Well, let me ask that first.

By Mr. von Holst:

6557 Q. Is this the stub for that check? A. I believe it is.

Q. I also, before I ask any further questions, would call your attention to Amici Exhibit 222, a letter signed C. L. Stokley, dated May 15, 1939, and addressed to Mr. Morgan S. Kaufman, Ambassador Hotel, New York, New York, and ask you if that is your signature.

(The witness examined the paper.)

A. No, that is my father's signature.

By Mr. von Holst:

Q. That is your father's signature? A. Yes, sir.

Q. And I call your attention—did you type the letter?

6558 A. Yes, sir.

Q. I call your attention to the envelope that is attached to this letter and is marked 222-A for Identification, and to the post mark appearing upon that envelope. It is June 19th, isn't it? A. Yes, sir.

Q. 1939? A. Yes.

Mr. Harris: The letter is dated May 15, 1939.

Mr. von Holst: May 15. So is the check.

Mr. Harris: And the stub is dated one day earlier than the post mark on the envelope.

Mr. von Holst: That is correct.

By Mr. von Holst:

Q. Now, do you know anything about this? Can you shed any light on it? A. I am afraid I can't, sir, unless there was just a mistake made there.

Q. Well, do you recall your father saying anything about antedating the check? A. No, sir, I don't.

Q. You made the entry, did you not, on the same day that the check was issued? A. To the nearest—to the best of my knowledge, I did that, always.

Q. In other words, if the check had been issued on May 15th you would have entered May 15th, 1939, on the check 6560
stub, wouldn't you? A. Yes, sir.

Mr. Harris: Well, but he didn't issue it. His father issued it.

Mr. von Holst: He wrote the stub.

Mr. Harris: You don't know when he wrote the stub.

The Master: Does the check appear on any statement?

Mr. von Holst: Oh, yes.

The Master: What date?

Mr. von Holst: The June date.

The Master: The June date. 6561

Mr. Harris: You can tell from the back of it when it was paid.

Mr. von Holst: Yes, that is right. June 23rd I make it.

Mr. Harris: Yes.

Mr. von Holst: June 23rd.

By Mr. von Holst:

Q. Do you recall the circumstances of making that——
A. No, sir.

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Q. —entry on the check stub? A. No, sir, I don't. My only explanation will be that that was another case where I couldn't quite keep up with my father's bookkeeping.

Q. Well, the check stub that I called your attention to, 6-18-38, is in its proper position in the stub book, isn't it?

Mr. Harris: Chronologically.

Mr. von Holst: Chronologically.

A. Yes, sir. You see, you have a vacant check here, a vacant stub there, and that is another one there (indicating).

6563

By Mr. von Holst:

Q. You mean you have the vacant—— A. Made out by Dad.

Q. You have the vacant stub between the entry of 4-14-39 and the entry of June 18th, '39, is that right? A. Yes.

Q. And you don't have the same balance, that is to say, the last balance before this entry of June 18th, 1939, is $71.39, is that right? A. Yes.

Q. And the balance brought forward on the stub of June 18th, 1939, is $307.63? A. Yes. That might have been a time when we were using two check-books and I was trying to keep up with both of them. That might not even be the

6564 stub for this check, it looks like it is, but it might be out of a different book, and I tried to keep this, the record in this book, here, by itself.

Q. Do you recall why you marked that check stub "Taxes"? A. No, sir, I don't. I must have been mistaken.

Q. Well, did you just enter that of your own—because it seemed a good idea at the time, or did you ask somebody? A. I don't recall how that happened, sir. I most likely made a mistake.

Q. You don't recall how you came to mark that "Taxes"? A. No, sir, I don't, but it should be "Interest."

By the Master:

Q. Did you at any other time send checks to Mr. Kaufman for taxes, if that was sent for taxes? A. No, sir, I believe my father paid what money he could on the taxes over in Tavares, at the court house.

Q. Directly? A. Yes.

By Mr. von Holst:

Q. Do you recall whether your father ever received an advance from Mr. Kaufman to pay taxes with, so that this check would be—— A. No, sir. 6566

Q. —a repayment of moneys advanced by Kaufman to pay taxes with? A. No, sir, I don't. I am sure that was a—just an error on my part.

Mr. Harris: Are you through questioning about that for the time being?

Mr. von Holst: Which?

Mr. Harris: The check book stubs.

Mr. von Holst: Yes.

Mr. Harris: May I have them over here, just to remind me to ask a question or two, and the letter?

Mr. von Holst: Just before you do that, I would like to offer in evidence the check book stubs, Amici Exhibit 235 for Identification, as Amici Exhibit 235 and the check book stubs marked Amici Exhibit 237 for Identification, as Amici Exhibit 237. 6567

Mr. Harris: The general objection as to relevancy——

The Master: Yes.

Mr. Harris: —and materiality.

(Check stub book of the Tavares Bank, with stubs dated from 2-12-38 to 4-6-1938, previously marked for Identification, was marked Amici Exhibit 235.)

(Check stub book of the Bank of Tavares, with stubs dated from 2-28-39 to 6-22-39, previously marked for Identification, was marked Amici Exhibit 237.)

By the Master:

Q. Mr. Stokley, I understand on this check dated May 15, 1939, you wrote nothing except the number of the check, is that it? A. I was looking at that and trying to check it, and as I look it over there I don't think I even wrote that,
6569 because it looks more like Dad's figures.

Q. Are you sure these words "Morgan S. Kaufman" are in your father's handwriting? A. Yes, sir, I would recognize that any place.

Q. And the date is his handwriting? A. Yes, sir, the amount and the signature.

Q. You think now that he wrote it all and you wrote none of it? A. I think now that he wrote even that, because I have no corresponding number in the check book at all of that.

Q. Do you remember the check, when it was written, I mean? A I think that I attached it to this letter.

Q. You did? A. Exhibit 222.

6570 Q. Did your father give you any reason why the check was dated a month earlier? A. I don't recall.

Mr. Harris: The letter is, too, Your Honor.

The Master: Postmarked, however, June.

Mr. Harris: Yes, the letter was apparently written when the check was.

The Witness: I don't recall any reason for that.

By the Master:

Q. Well, do you recall whether it was written about this date or whether it was written in June, when the letter was sent? A. Well, I don't remember, sir.

By Mr. von Holst:

Q. Well, you typed the letter, didn't you? A. Yes, sir.

Q. Do you remember typing that date, May 15th, in June, or in May? A. Well, I don't remember, sir, but the postmark is in June and unless there was a slip there and the letter wasn't mailed—which I don't think happened—why, it was, all of it was written in June.

Q. Including the check? A. Yes, sir.

By the Master:

6572

Q. Your father didn't suggest to you any reason why it should be dated an earlier date? A. No, sir, I don't recall any reason for that at all. I couldn't say whether it is an error, or what.

By Mr. von Holst:

Q. I call your attention, Mr. Stokley, to your letter to Mr. Gahagan of March 7, 1940, Amici Exhibit 234, and to the statement near the bottom:

> "I was sure I made out the check on this typewriter, but evidently Dad took the check from me and made it out in his own hand, and I filled in the stub. He must have been mistaken about the date he filled in, for I am sure it was in June."

6573

Is that your present belief,——

A. Yes.

Q. ——that the date on the letter, Amici Exhibit 222, is wrong, and it should have been June; is that right? A. Yes.

Q. And that same thing would apply to the check, the photostat of which is in evidence as Amici Exhibit 136? That is this?

Q. Yes. A. Yes, sir, that seems to be my opinion—that is my opinion, that the check and letter—check and letter were written on the June date.

Q. And that your father put the May date on them? A. It was my mistake here, and evidently his there, or whatever you call it.

Q. It might have been vice versa, I suppose, his mistake on the check and your mistake on the letter? A. Well, that is what I mean.

Q. But you don't have any recollection of how you came to write a May date on a letter that you were writing in June? A. No, sir, I don't, because that is plainly June 18th.

Mr. von Holst: I wish to offer in evidence the three
6575 yellow sheets called ledger sheets and marked "Income", previously identified as Amici Exhibit 233 for Identification, as Amici Exhibit 233.

Mr. Harris: Objection as to relevancy and materiality only.

(Three sheets entitled "Income", prepared by Wilmer C. Stokley, previously marked for Identification, were marked Amici Exhibit 233.)

Mr. von Holst: I also offer in evidence Amici Exhibits 210-A and 210-B for Identification, as Amici Exhibits 210-A and 210-B.

Mr. Harris: The usual objection.

6576 The Master: Admitted subject to Mr. Harris' objection.

(Photostatic copy of letterhead of C. L. Stokley & Son, Mt. Dora, Florida, previously marked for identification, was marked Amici Exhibit 210-A.

Photostatic copy of paper entitled "Expenses, 9-1-37 to 9-1-38", previously marked for identification, was marked Amici Exhibit 210-B.)

By Mr. von Holst:

Q. Mr. Stokley, I show you a photostat of a letter dated February 27, 1939, signed "Bill", addressed to Judge Davis,

and marked Exhibit 206. Do you recall writing that letter and sending it to Judge Davis?

The Master: Is that in the record?

Mr. von Holst: It is. I am just identifying it again.

(The witness examined the letter.)

A. Yes, sir, I wrote that.

Mr. von Holst: Mr. Harris, I am now going to refer to these two.

I ask that the reporter mark a document dated 6578
May 3rd, 1941, reading "Total amount due Morgan S. Kaufman to date—$13,000" as Amici Exhibit 238 for Identification; and a document dated May 3rd, 1941, reading "Total amount due Judge J. Warren Davis to date—$1,404", as Amici Exhibit 239 for Identification.

(Handwritten memorandum dated May 3, 1941, of total amount due Morgan S. Kaufman, was marked Amici Exhibit 238 for Identification. Handwritten memorandum dated May 3, 1941, of total amount due J. Warren Davis, was marked Amici Exhibit 239 for Identification.) 6579

By Mr. von Holst:

Q. Now, I hand you these two papers, Amici Exhibits 238 and 239 for Identification and ask you if they are in your handwriting. A. Yes, sir.

Q. Now, referring first to this Amici Exhibit 238 for Identification, Total amount due Morgan S. Kaufman, how do you arrive at that figure? A. This was after I left home, I was working in Orlando as an insurance agent, and I came home, and I don't recall anything about those figures, Dad

must have figured them up and just had me write them down for him.

Q. Does that explanation go for both those exhibits? A. Yes, sir, I don't recall where those figures came from, but evidently——

Q. Neither of them represents any independent search that you made, or check? A. Not that I made, no, sir.

Q. And your father didn't tell you where he got those results? A. I don't remember how he figured them out. He had a—he had a memorandum there that—where he had
6581 reached those figures, but I wrote them down for him, and that was after I left home, and I was not responsible for anything that—the bookkeeping.

Q. Do you know a person, a man named Barker? A. Yes, sir,—if you recall, I think his initials are A. J. Barker?

Q. That I don't know, Mr. Stokley. A. In Mount Dora.

Q. But there is a Barker at Mount Dora? A. He was a winter visitor there, yes, sir.

Q. He was what? A. A winter visitor.

Q. A winter visitor? A. From Michigan.

Q. And he knew your father? A. Yes.

Q. And how many years ago did you meet him? A. Well, I met him when I went down in the winter of '37 and-
6582 '38, but he had been coming to Florida prior to that.

Q. And was he a friend of your father's? A. Yes, sir.

Q. Knew him well? A. Yes, that is, as an acquaintance of the wintertime, you see.

Q. And he knew him before 1940? A. Yes, sir.

Q. What did you say his initial was? A. I think it is A. J. I am not certain of that.

Q. Well, do you know a concern down in Orlando called the Barker Porter Advertising Company? A. No, sir, I don't.

Q. And a George A. Barker? A. I don't recall the name, no, sir.

Q. But you do recall this other Barker? A. Yes, sir.

Q. And what is his name, again? A. I think it is A. J..

Q. A. J., and he is from Michigan? A. Yes, sir.

Q. And was a winter visitor down there, is that right? A. Yes.

Q. Did he visit in your home?

Mr. Harris: May I see those apocryphal documents?

A. I imagine he had several meals at home, and came over and helped Dad on the farm, and things like that, but he never lived at home. 6584

By Mr. von Holst:

Q. I see, but he stayed in Mount Dora, did he? A. Yes. You begin to realize why I gave up bookkeeping as a bad job, after a while.

Q. Did you know a lady named Eunice Cole? A. Yes, sir.

Q. Where did you first meet her? A. She was brought into our home.

Q. It was when you were just a kid? A. Yes.

Q. About how old were you? A. Oh, I imagine it was around 1920, and I was about eight years old, something like that. 6585

Q. And how long did she stay in your home? A. I don't remember just when she was married and left home. I imagine it was around four or five years later.

Q. How old was she when you first knew her? A. I don't know her age.

Q. Was she older than you? A. Oh, yes.

Q. And after she married did she continue to visit——

A. Yes.

Q. —with your family? A. Yes.

Q. Did she do any business for your father? A. I don't know about that, sir.

Q. Well, don't you recall that she did banking for him?

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A. She might have, but I don't know anything about it. was young, and I don't recall anything of that nature.

Q. Well, when was the last time, as far as you reca that she visited at your father's home in Mount Dora? By "visiting", you mean staying there?

Q. No, just coming to see the family? A. Coming- that was in 19—I think that was 1941.

Q. Now, prior to 1940 did she come over to see yo people? A. Oh, yes.

Q. And you were all friend , were you? A. Sure.

Q. And there was never any bad feeling that you kno
6587 of, was there? A. No, sir.

Q. Do you know how many years she was in your hou before she got married? Or did you answer that? A. gave you my approximate answer. I don't know.

Q. Five years, you think? A. Four or five years, som thing, yes.

Q. Do you know her husband? A. Yes.

Q. Rett Cole, is that it? A. Yes.

Q. R-e-t-t? A. Yes.

Q. And was he a visitor at your Home in Mount Dora A. Yes.

Q. Mr. Stokley, do you recall seeing at any time an
6588 other cancelled checks payal. to the order of J. Warre Davis, that is, other than the four hundred dollar check February 28th, 1938? A. No, sir.

Mr. von Holst: Direct examination closed.

Cross Examination by Mr. Harris:

Q. Mr. Stokley, I call your attention to Exhibit 238 fo Identification——

The Witness: Would you pardon me? May I b excused just a minute?

Mr. Harris: Certainly.

(The witness left the room for a few minutes.)

Mr. Harris: I just have one or two questions, Mr. Stokley, to ask you.

The Witness: Yes, sir.

By Mr. Harris:

Q. Would you look at Exhibit 238 for Identification? This is one that you identified as being in your handwriting and prepared, as I recall it, at your father's direction? A. Yes, sir.

Q. And he gave you the figures? A. Yes, sir. 6590

Q. And he told you to write them down, to refresh his recollection when he appeared in New York, as to the amount due? A. I believe that is what he had in mind right then, sir.

Q. Well, I mean, was that what he said; "Prepare this for me"? A. Well, all I know is that I wrote it for him. I don't remember the circumstances of it, now. You see, I wasn't with him then and I just happened to be over there, and I just wrote them for him.

Q. He asked you to write it down? A. Yes, sir.

Q. And he told you that that represented the amount that he owed Mr. Kaufman? A. Mr. Kaufman, yes. 6591

Q. Do you make the same answer with respect to Exhibit 239 for Identification? A. Yes, sir.

Q. Except that that would be the amount that he said he owed Judge Davis? A. Judge Davis, yes.

Mr. Harris: I offer both of those in evidence.

(Handwritten memorandum dated May 3, 1941, of total amount due Morgan S. Kaufman, previously marked Amici Exhibit 238 for Identification, was marked Universal Exhibit 21.)

(Handwritten memorandum dated May 3, 1941, of total amount due J. Warren Davis, previ-

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ously marked Amici Exhibit 239 for Identification was marked Universal Exhibit 22.)

By Mr. Harris:

Q. Mr. Stokley, referring to Amici Exhibit 235, it was called to your attention that a stub appears to have been torn out between stubs dated February 28th, 1938, and March 1st, 1938. A. Yes, sir.

Q. Is that right? A. Yes.

Q. Did you tear that out—— A. No, sir, I didn't.

6593 Q. —yourself? Do you know who did? A. No, sir, don't.

Q. So far as you know, was it torn out—so, so far as you know of your own knowledge, did that represent a stub of a check which was once in the book and was torn out other than just looking at it? A. Well, other than—that represents a stub that was torn out.

Q. And do you know when it was taken out,—— A. No.

Q. —who took it out? Do you know whether it was out when—was this Exhibit 235 turned over to Mr. Winstead,—— A. I don't recall——

Q. —do you recall? A. —whether that was turned over to him, or whether I took it up to New York with me.

6594 Q. Well, was that stub torn out when you took it to New York, to your knowledge? A. It wasn't in there when I was examined.

Q. But when you took Exhibit 235 to New York with you, if you took it, was the stub then torn out, do you know? A. I don't know, sir.

Q. And you turned it over to the United States Attorney or his assistant, did you not? A. Yes, sir.

Q. And you don't know when, where, or by whom that stub was torn out? A. No, sir, I don't.

Q. You have no knowledge or information on the subject? A. No, sir.

Q. Your father, so far as you know, did not tear it out? A. I don't know whether he did or not, sir.

Q. So far as you know, he did not? A. So far as I know, he didn't.

Q. Now, I refer you to Exhibit 222, Exhibit 136, and Exhibit 237, from which it appears that your father sent Mr. Kaufman a check for six hundred dollars in the year 1939. The check in your father's handwriting, as you have testified, is dated May 15, 1939. The letter to Mr. Kaufman, which you say you typewrote for your father,—— A. Yes.

Q. —which your father signed,—— A. Yes. 6596

Q. —was also dated May 15, 1939? A. Yes, sir.

Q. An envelope attached to this letter, the envelope attached to this letter bears a Mount Dora, Florida, postmark apparently of June 18th or June 19th, 1939? A. Yes, sir.

Q. And the check book stub bears date June 18, 1939 and is marked "Kaufman Taxes", whereas the letter which you typewrote applies the check on account of interest. A. Yes, sir.

Q. And I recall your testimony is that your father's instructions were that that should be applied to interest? A. Yes, sir.

Q. Now, isn't it likely, in view of the fact, among other things, that the letter, which is dated May 15, 1939, refers 6597 to the check as "interest", and the check is dated May 15, 1939, whereas the stub is dated June 18, 1939, that the check was written on or about May 15, 1939, and that the letter was written by you on or about that time, that it was sealed up and simply was not posted, and when it was mailed in June, on or about June 18, 1939, that you discovered that there was no entry in this particular check book, and you made an entry, and simply made a mistake, and called it "taxes" instead of "interest"? Is that not a probable explanation for all of that? A. That could be, sir, but I—I am not certain how that occurred there, how the "taxes" was written

in there, I am sure that is a mistake, but I am not sure how this other——

Q. I call your attention to the fact that in the check book, which is Exhibit 237, in that the last preceding check was April 14, 1939. Is it possible that your father didn't draw any checks for more than two months? A. Yes, sir, there were times that he didn't draw any checks at all.

Q. So that would not be unusual? A. No, sir.

Q. Well, is it possible that you yourself could have made a mistake and dated a letter May 15th, when it was really on or about June 15th? A. Yes, sir, that could have hap-

6599 pened.

Q. And on the same document, in connection with the same transaction, your father made the same mistake on the check? A. That could have happened, but I——

Q. Isn't it more likely that the check was drawn, the letter was written and sealed up, and that you simply failed to mail it, either because you forgot it or because you didn't have enough money in the bank?

Mr. Theiss: I believe this is all hyopthesis.

A. It could have been, but I don't recall the circumstances of that.

6600 Mr. Harris: I see. I know it is a little hypothetical, but I am trying by these hypotheses to refresh his recollection, that is all.

I think that is all, Mr. White.

By the Master:

Q. Mr. Stokley, did your father ever talk to you about this investigation? A. You mean prior to the time that we came to New York?

Q. Yes, or after you first knew from Judge Davis that there was an investigation. A. Yes, sir, I was told about it.

Q. Well, did your father indicate why he thought he was drawn into it in any way? A. Well, it was because of the loan that he received from Mr. Kaufman.

Q. He understood that that was it, did he? A. Yes, sir.

Q. Did he say anything to you about it, particularly? Do you remember anything he said about it? A. Nothing, sir, except that he made the loan from Mr. Kaufman, and he also had a loan from the Judge. That was one of the reasons why I went home, was to help him get together and pay off all of them.

Q. And he understood that was the reason that he was drawn into the investigation? A. Yes, sir. 6602

By Mr. Harris:

Q. One more question in connection with that, did your father tell you that his loan from Mr. Kaufman was an ordinary business transaction? A. Why, yes, sir.

Q. And from Judge Davis, was also? A. The same thing, to save his property.

Q. Did he ever tell you that he was not expected to pay back the Kaufman loan? A. Absolutely not.

Q. Did he ever tell you that he felt he should pay it back as soon as he could? A. Why, that was understood, because the interest was mounting up so high that it was—it wouldn't take long for it to be practically eating up his whole property. 6603

Q. During the time you were with your father did your father, so far as you know, make every effort to pay all he could to Mr. Kaufman and Judge Davis? A. Yes, sir.

Mr. Harris: That is all.

Redirect Examination by Mr. von Holst:

Q. Mr. Stokley, did your father ever say to you to this effect, something to this effect, that he had in the beginning

made a mistake in paying his interest on the Kaufman loan to Judge Davis? A. Would you repeat that, sir?

Q. Did your father ever tell you that he had made a mistake in the beginning in sending the interest on the Kaufman ten thousand dollar loan to Judge Davis?

Mr. Harris: Now, just a minute, I think that——

A. I don't know of anything——

Mr. O'Mara: Wait a minute.

Mr. Harris: I think that question is not fair. What
6605 do you mean? I don't know what he means, myself. There is no evidence to that effect in the record.

Mr. von Holst: I would like the question read, and I think it is a perfectly legitimate question.

Mr. Harris: I don't know what you mean. Do you mean——

Mr. von Holst: Well, just read the question.

Mr. Harris: ——did the father ever admit that he made a mistake——

Mr. von Holst: Let the Master rule.

Mr. Harris: ——and his father sent——

Mr. von Holst: I asked the witness whether his father ever said anything to him to that effect.

6606 Mr. Thiess: What is the question?

The Master: The question is whether Mr. Stokley ever made a statement which might suggest he made an error. I think he can answer the question.

Mr. Harris: Well, that is a different thing.

The Master: He asked him if he had made a statement. Repeat the question, Mr. Rodebaugh, please.

(The question was repeated by the reporter as follows:

"Q. Did your father ever tell you that he had made a mistake in the beginning in sending the

interest on the Kaufman ten thousand dollar loan to Judge Davis?")

Mr. Harris: Just a minute, now, that is objectionable,——

Mr. von Holst: No.

Mr. Harris: —because it presupposes that he did send the Kaufman interest to Judge Davis.

Mr. von Holst: It does not, if the Master please, it asks him whether his father ever made that statement to him.

The Master: Well, I don't think there is any assumption of fact there. 6608

Mr. Harris: Well, all right.

The Master: He can answer if his father made such a statement.

A. I don't recall of any statement like that, sir.

The Master: Don't recall; that is all.

Recross Examination by Mr. Harris:

Q. Well, your recollection is he did not make such a statement? A. No, sir, I have no recollection of a statement of that sort at all. 6609

Q. Is it your best recollection he did not make such a statement? A. He did not make it.

The Master: Anything further?

Mr. von Holst: Nothing further.

The Master: I thing that is all, Mr. Stokley.

EUNICE M. COLE, having been duly sworn, was examined and testified as follows:

Direct Examination by Mr. von Holst:

Q. Please state your name. A. Mrs. Eunice M. Cole.

Q. And where do you live? A. Eustis, Florida.

Q. And how long have you lived there? A. Since 1926, in the spring.

Q. And where did you live before that time? A. Oh, traveled over different parts of the State, different parts of the United States. Mr. Cole was a road builder and traveled over different parts of the country—I could name the States, I couldn't name exactly what months—for six years.

Q. Your husband's name is Mr. Rett Cole? A. That is right.

Q. Is that R-h-e-t-t? A. No, R-e-t-t.

Q. R-e-t-t. How long have you been married, Mrs. Cole?

6611 A. Well, we were married in 1920—I believe that is correct.

Q. And before your marriage did you live at Mouht Dora? A. Yes, sir.

Q. Did you live in the family of Mr. Charles—— A. Yes, sir.

Q. Charles Lee Stokley? A. Right.

Q. And how long had you lived there before your marriage? A. I think to be right, it was about—well, you figure it—about three years. I was just a little past seventeen. I was married when I was twenty.

Q. And you went with the Stokley's when you were seventeen? A. I won't say when, I was just past seventeen.

6612 Q. And you lived there three years, and then you were married, is that right? A. Yes, that is right.

Q. And you were married in what year, Mrs. Cole, did you say?

Mr. Harris: '20, she said.

By Mr. von Holst:

Q. 1920? A. I said 1920, yes.

Q. Now, you transacted business for Mr. Stokley, did you not? A. Just what do you mean by that?

Q. Well, I mean, you did banking for him? A. I imagine, —I know I have deposited money at times for him, yes.

Q. That is, helping around in the business; he was in the business of growing fruit, wasn't he? A. Yes, and he was in the drug store business there for a while, had two stores in Eustis, and one in Mount Dora.

Q. When was it that he had those drug stores? A. Let me see—let's see, now, we bought that place in '26, I am not certain, now, I don't——

Q. Just your best recollection. A. Yes, from '26, it seemed like, to about '31,—now, I don't know, it may not have been '31, it may have been around '29,—must have been, I don't think it was that many years—it was '26, I think, to '29, I believe. 6614

Q. And that was the period that he had these drug stores, is that right? A. Well, to my knowledge, now.

Q. All I am asking is your best recollection. A. Well, yes, because I have had a lot of sickness, and I will have to say my memory isn't as good, probably, as it was.

Q. Well, now, did Mr. Stokley go bankrupt in that drug business? A. Well, I guess he did. I guess you would call it bankruptcy.

Q. Now, at the time that he went into bankruptcy, which you think was somewhere around '29, and may have been a little later or a little earlier,—— A. I am not certain, but I think it was a little later, I think it was in '29. 6615

Q. Yes, did he convey any property to you——. A. That means——

Q. —at the time A. That means deeding the property to me?

Q. Yes. A. No, indeed.

Q. He did, though, convey certain notes to you, didn't he, for collection? A. How is that? Just what do you mean, now?

Q. Notes. A. Well, I know, now, the only note that I have ever had of Stokley's was some money that I had in bank, savings, I drew it out and loaned to him, which was

around five hundred dollars, amounted to that amount at the time, I feel, my salary. That is the only time I ever had a note of his.

Q. You loaned him five hundred dollars? A. Yes,—don't get me I took the five hundred and handed it out from the bank to him, I think exactly it was around two hundred and something, and he felt, so did I, it was in the salary he owed me, being in the drug store, amounting to five hundred.

Q. Did he give you a note? A. Yes.

Q. For that amount? A. Yes.

6617 Q. And when was that? A. That was either in '30 or '31, I am not certain.

Q. I see. Well, now, I want to show you three notes here that have been marked Universal Exhibits 17-A, 17-B and 17-C, that Mr. Stokley brought up here, and I think one of them—that is 17-A—is endorsed to you.

(The witness examined the note.)

A. It certainly is, I mean, that is my signature I don't know what this other means. I certainly believe that is. Now, what is this for, now?

By Mr. von Holst:

6618

Q. That is your signature on the back, is it? A. It certainly is, this one is here, I am most certain it is.

Q. Well,—— A. What is this?

Q. Do you know anything about that transaction? A. Right now I don't.

Q. Signed by G. O. Watkins. A. What is Watkins? Watkins?

Q. They are payable to the order of C. L. Stokley, and you will notice that they are all dated February 1st, 1928. A. Yes.

Q. And each one is for $856.92, and they are due, respectively, February 1st, 1929, February 1st, 1930 and February 1st, 1931? A. Yes.

Q. Now, do you remember anything about those notes? A. No, I certainly do not, and I am honest with you, that is certainly my signature, and I don't remember——

Q. You see, neither of the others—wait a second, strike that. They all have your signature, do they not? A. Yes, indeed, I am positive,—I am not sure about this one right here (indicating).

Q. Well,—— A. But this certainly is mine, right there (indicating). 6620

Q. When you say this is yours, you mean the second time that on the back of each note the words "Eunice Cole" appear, is that right? A. Yes.

Q. Because the first time it says, "Pay to the order of Eunice Cole"? A. Yes.

Q. That is not your writing? A. Well, I wouldn't say that is, but I am positive that is (indicating).

Q. But you are positive the second signature, the endorsement, is your endorsement? A. Yes.

Q. Yes. A. And as far as when I put that on there, I don't know, but I wouldn't be surprised, I was just that ignorant, if he said, sign, I didn't have any more brains than to do it. Now, that is just plain truth. 6621

Q. Let me ask you, Mrs. Cole, were those notes assigned to you for collection? A. I don't know if I have ever seen them, until looking at them right now, I can't recall.

Q. You don't recall that Mr. Stokley gave you those notes to collect from Mr. Watkins the amount due? A. Why, no. I don't even know Mr. Watkins.

Q. Never met him? A. If I did, I don't know it. That is true, but my name is there. That is what I don't understand.

Q. Well, you say that you don't recall seeing these notes before? A. I can't recall seeing them, ever, but during that time if he had said, sign this, or that, why, I probably would

have been foolish enough to do it, not knowing what I put my name on, but as far as for collecting, I know nothing about that.

Q. Well, were these notes ever in your possession—— A. I never——

Q. —for a period? A. No, sir, I never saw them before, I am positive of that.

By Mr. Harris:

Q. Well, you saw them when you signed them? A. That
6623 might be right, too. He could have asked me to sign something that I didn't know. As I said, I was just ignorant enough to do it.

By Mr. von Holst:

Q. Well, at any rate, you identify this as your signature? A. Yes.

Q. But you say that you don't—you never saw the notes? A. Can't recall that I have ever seen those notes.

Q. And if you saw them at all, it was when you put your signature on, is that right? A. Well, it must have been.

Q. Yes. A. I don't know how they would get my sig-
6624 nature, otherwise, I don't know.

The Master: It was about the time Mr. Stokley went into bankruptcy, was it?

Mr. Poore: June of '29, or January.

Mr. von Holst: Just about the time. '28, they are dated, February, '28.

Mr. Poore: The assignment is January, '29.

Mr. von Holst: Answering the Master's question, the one note that has the assignment, which is Universal Exhibit 17-A, the assignment is dated the 5th day of, I think it is January, 1929. It looks like Jan.

Mr. Harris: I think it is June.

Mr. von Holst: There is no "e" on it, Mr. Harris. You may be right.

Mr. Harris: The reason I think it is June is, since it was past due, it would be appropriate to pass it by assignment rather than by endorsement. The other two wouldn't be past due. This one would be past due.

Mr. von Holst: Well, it is either January or June, I can't make out.

Please mark this note Amici Exhibit 240 for Identification. 6626

(Note dated May 23, 1924, from Charles S. Rees and Mrs. Charles S. Rees, to the order of C. L. Stokley, for $1000, was marked Amici Exhibit No. 240 for Identification.)

By Mr. von Holst:

Q. I want to show you a note which I have marked Amici Exhibit 240 for Identification, and I call your attention to the back of that note. A. Yes.

Q. And the assignment says:

"For a consideration of ten dollars and other good and valuable consideration I hereby assign transfer and deliver to Eunice Cole the note written on this paper and the indebtedness evidenced thereby." 6627

And that is the 7th day of—it is some month beginning with "J". A. Yes.

Q. 1929, signed C. L. Stokley. Now, do you remember anything about that note? It is a note signed by Charles S.—— A. Mrs.——

Q. Rees. A. I am familiar with the name. They bought some banana plants from him, now, but what year, I don't

know a thing about it, but I remember that name very well, from Fort Myers. In fact, I met the lady that was up there.

Q. Well, beyond remembering the name, do you remember anything about how he came to assign that note to you? A. I do not, I certainly do not.

Q. Was that note ever in your possession? A. I never saw it before to my knowledge, I certainly have not.

Mr. von Holst: I would like to introduce that in evidence as Amici Exhibit 240.

6629 Mr. Harris: Well, I object to that as incompetent, irrelevant and immaterial. There has been no testimony by Mr. Stokley on that, and no claim by him——

Mr. von Holst: Well, I think it is material that there is another note that is assigned to her that she knows nothing about.

Mr. Harris: Well, maybe he doesn't claim that he ever gave it to her, we don't know.

The Master: Did he testify about this note?

Mr. von Holst: I beg your pardon?

The Master: Did he testify in reference to this note?

Mr. von Holst: The stuff wasn't here, if the Master please, when he was here.

6630 The Master: Well, it may have some bearing, Mr. Harris. I will let it in. I will rule on it later if it becomes material.

(Note dated May 23, 1924, from Charles S. Rees and Mrs. Charles S. Rees, to the order of C. L. Stokley, for $1000, previously marked for Identification, was marked Amici Exhibit No. 240.)

By Mr. von Holst:

Q. Do you know a person by the name of Barker, a man by the name of Barker? A. Yes, sir.

Q. And who is he? A. He is a Mr. Arthur V. Barker, from Belmont, Michigan. He and his wife wintered in Florida for about eight or nine years.

Q. Where did he spend the winters? A. I am not certain, it was eight years in Mount Dora, or seven, I wouldn't say just exactly, and the past two years in Eustis.

Q. And do you know whether Mr. Barker knows Mr. Charles Lee Stokley? A. I certainly do know that he knows him.

Q. Have you seen Mr. Barker at Mr. Stokley's house? A. That is where I met him. 6632

Q. That is where you met him? A. Yes, indeed.

Q. And when did you meet him? A. I think I have known Mr. and Mrs. Barker for about—well, I don't know whether it is eight or nine years. I met them the first year they came to Florida.

Q. And did you first meet them eight or nine years ago at Stokley's house? A. Yes, we were talking of that, it hasn't been so long ago, the first winter they were here.

Q. I show you a letter marked Amici Exhibit 205, and an envelope, and ask you whether you received both the letter—received the letter in that envelope.

(The witness examined the exhibit.)

6633

A. Well, I wouldn't say positive I received it in the envelope, but they are both dated the same, 1940.

By Mr. von Holst:

Q. Well, did you get the letter? A. Now, just a minute, I got so many of them, I will tell you in just a few minutes.

(The witness examined the letter.)

The Witness: I haven't read the whole thing over—yes, I remember this.

By Mr. von Holst:

Q. You did get that letter? A. Yes, yes. Pardon me, what is this written up here? I don't remember ever seeing that before.

Q. What you are pointing my attention to is Amici Exhibit 205 for Identification. A. Yes.

Q. That is the notation the reporter put on this letter when it was offered in evidence here. A. Yes.

Q. And that, of course, was not on the letter when you got it. A. Well, I didn't remember seeing it.

6635 Q. That is right. A. I haven't read the whole letter over, but I am most sure it is a letter——

Q. Well, you better make sure, if you want to take your time to read it. I don't want there to be any mistake.

(The witness examined the letter.)

The Witness: Yes, sir.

By Mr. von Holst:

Q. You received that letter? A. Yes, I remember the date and everything.

Q. Now, this letter is dated December 19, 1940. Had
6636 you received any other letters from Mr. Stokley? A. Yes, sir.

Q. And do you have them? A. I have one. I am going to be honest with you, I received so many trashy letters that I disposed of them. I never realized that they would be anything of value, until just recently, the last one I received. I didn't know that.

Mr. Harris: I don't see why we should be involved in any of that.

Mr. von Holst: Is there any motion pending?

Mr. Harris: Never mind.

By Mr. von Holst:

Q. You say you have one other letter? A. Yes.
Q. Have you it with you? A. Yes, sir.
Q. Will you produce it?

(The witness produced a letter.)

Mr. von Holst: Let the record show that the witness hands counsel a letter contained in an envelope addressed to Mrs. Eunice Cole, 911 Washington Ave., Eustis, Florida, the postmark bearing the date of March 9th, at Orlando, March 9th, 1943. 6638

By Mr. von Holst:

Q. Have I your permission to read this? A. Yes, sir.

The Witness: Let me ask you one question.
Mr. von Holst: Yes.
The Witness: Why was that sent to me?
Mr. von Holst: Which?
The Witness: Just what you see, right there.
Mr. von Holst: This letter here?
The Witness: Yes, just as it is.
Mr. von Holst: The only reason I can give you, Mrs. Cole, is that Mr. Stokley was called here to testify as a witness,— 6639
The Witness: Yes.
Mr. von Holst: —and he was interrogated about this letter, Amici Exhibit 205, that I have shown you.
The Witness: Yes.
Mr. von Holst: Now, that is the only answer I can give you. I didn't know anything about his having written you or communicated with you in any way until you handed me this letter.
The Witness: Did he say there I have the original myself? I haven't read it over, I don't think, I don't remember——

6640 *Colloquy*

Mr. von Holst: He says:

"I have your original letter I wrote you Dec. 19——40."

The Witness: Is it?

Mr. von Holst: No, this is the original letter (indicating). It has been here, of course, since he testified.

I would like to offer this letter in evidence of March 8, 1943. It is material on one ground; it says: "Now you ask Barker if I may send you $100.00 dollars". Mr. Stokley testified that the name "Barker" 6641 was fictitious that he made up the man out of the whole cloth, and here is a letter written on March 8th——

Mr. Harris: In other words, you offer this to attack his credibility.

Mr. von Holst: Yes, on that one point.

The Master: What was the enclosure in the letter?

Mr. von Holst: The enclosure is something that we wrote up at our office to make clear this thing. It is a typewritten copy.

The Master: How did he get hold of it?

Mr. von Holst: I don't know.

Mr. Harris: Did you give it to him?

6642 Mr. von Holst: I may have. We had such trouble——

Mr. Harris: I think you handed it to him.

Mr. von Holst: I think I did, because we had such trouble understanding that.

Mr. Harris: And he put his signature on it.

Mr. von Holst: And he signed it.

The Witness: That letter would probably have been destroyed, like the rest, and paid no attention to it, but I had it—may I mention to you just the night that that letter was received, that I received that letter?

Mr. von Holst: Yes.

The Witness: That was carried over to the hospital, Mrs. Barker, this man's wife, was sick, she was desperately sick, I didn't realize it was serious, and I read the letter over.

She said, "Eunice, I declare, that is exactly the same letter, you know, I had read before".

Mr. von Holst: Meaning this one on yellow paper?

The Witness: Yes, I read it over. She says, "I believe it is word for word", she says, "I wouldn't pay any attention to it, forget it." 6644

The next night she died. Now, that is quite a shock, believe me.

Mr. von Holst: Now, I offer this letter of March 8th, 1943, as Amici Exhibit 241,——

Mr. Harris: It is offered generally, isn't it?

Mr. von Holst: I beg your pardon?

Mr. Harris: It is offered generally?

Mr. von Holst: Yes.

Mr. Harris: No objection.

Mr. von Holst: —the envelope in which the letter was handed to counsel as Amici Exhibit 242, and the enclosure on yellow paper, which was in the letter, as Amici Exhibit 243. 6645

(Letter dated March 8, 1943, from "Charlie" to "Dear Eunice" was marked Amici Exhibit 241.)

(Envelope addressed "Mrs. Eunice Cole, 911 Washington Ave., Eustis, Fla.", postmarked March 9, 1943, was marked Amici Exhibit 242.)

(Enclosure with Amici Exhibit 241, a copy of a letter dated December 19, 1940, from C. L. Stokley, was marked Amici Exhibit 243.)

6646 *By Mr. von Holst:*

Q. Now, I am referring to the letter, Amici Exhibit 205, of which Amici Exhibit 243 is a copy, and is much easier. I would like to ask you a few questions about things that are in this letter. A. Perfectly all right.

Q. In the first place, Mr. Stokley mentions a life insurance policy made to you and the girls for three thousand dollars. Do you know anything about such a policy other than is contained in this letter? A. Never heard of it until I received that letter.

6647 Q. After you received this letter did you talk to Mr. Stokley about it, ask him anything about it? A. Never talked to him, but I think I wrote him something about it—no, I have never mentioned that letter to him—to him.

Q. Had Mr. Stokley ever talked to you before the date of this letter about his financial troubles? A. That is about all that I ever heard from him, was always broke, if that is what you are speaking of.

Q. Did he ever mention to you that he had obtained a loan for ten thousand dollars from a Mr. Kaufman, Morgan S. Kaufman? A. Well, don't let him put this down—I have heard that off and on so much, and I think he borrowed this from him to straighten up some debts on his place.

6648 Q. Well, my question is, do you remember when he first—— A. Spoke about it?

Q. —spoke to you about Morgan Kaufman? A. No, I couldn't remember the dates, now.

Q. Did he ever speak to you about having borrowed money from Judge Davis,—— A. Oh,——

Q. —J. Warren Davis? A. —that is what I thought he borrowed it from, but then later I heard he borrowed it from Kaufman, so I didn't never know who he did borrow it from.

Q. Well, did he ever tell you that he had borrowed the money from J. Warren Davis to redeem his property at Mount Dora? A. I don't—I can't remember whether he

6649

said, "I borrowed it from Kaufman, through Davis"—wasn't that right, Davis being a friend of Kaufman's—now, that is my whole—what I believe, he borrowed his money from Kaufman through Davis, that, in other words, Davis got him the loan. That is all I can remember. Now, whether that is correct, I don't know.

Q. Now, he says in this letter: "Where I made my mistake I sent the check with a Tavaries Bank ck to Judge D paying my years interest." Did he ever tell you that he was sending interest— A. Well,—

6650

Q. —to Judge Davis, before this letter? A. Why, yes, and I can remember a time that I carried some money—now, I couldn't remember just exactly the amount, but it was a check to Judge Davis, myself, to his home.

Q. When? A. When was the World's Fair? '39, is that right? When was the first year of the World's Fair?

Mr. Harris: That is right, '39, I think.

The Witness: We were at Virginia Beach and my two daughters and myself were driving to New York—now, wait just a minute, that couldn't have been the time, because—no, I have got the date all off on that, I know we did go to New York, but that was along, I believe, in '36.

6651

By Mr. von Holst:

Q. In '36? A. Now, the reason I can remember that is because I remember we had a new Chevrolet sedan—or coach, rather, and we went to Judge Davis' home and spent the night, and from there we went on to Cairo, New York, the next day—better change that date.

Q. He has got everything down. Now, you think it was in '36? A. I am positive, yes.

Q. Now, what time in '36? Was it the spring, summer, fall or winter? A. I could tell you—let's see—it was in

the summer—I was just trying to think what time it was—it was sometime in the summer, but I wouldn't remember whether it was July or August.

Q. Do you remember what the amount of the check was? A. No, that is what I can't remember, I do not remember. I am most certain he gave it to me in an envelope and told me to hand it to Judge Davis. That is all I remember.

Q. There is mention in this letter of a Miss Hix. He says here: "They"—meaning the Government, I think,—— A. Yes.

Q. —"also confiscated your letter of about May 1—Miss
6653 Hix said it never came to Atlantic City."

Mr. Harris: Atlantic Hotel.

Mr. von Holst: I beg your pardon, Atlantic Hotel.

The Witness: Norfolk—yes, I heard him——

By Mr. von Holst:

Q. Who was Miss Hix? A. Now, I believe he has told me that Miss Hix was—well, would you say bookkeeper there, or what?

Q. At the Atlantic Hotel? A. Yes, took care of the mail—I don't know what it was, that is my recollection, that is who Miss Hix must have been.

6654 Q. Well, you didn't know Miss Hix? A. I met some people, so many,——

Q. Did you—— A. —I don't remember whether I ever met Miss Hix or not. I wouldn't know her if I would see her.

Q. Now, he also says in this letter that the Deputy Marshal, United States Marshal,—— A. Yes.

Q. —also wanted to know what was meant by Mr. Barker's letter of April. Do you recall what he was talking about there? A. I do know that Mr. Barker asked him not to be writing him.

Mr. Harris: Well, I object to that. That is very far, pretty remote, and hearsay, she knows that Mr. Barker asked him not to——

Mr. von Holst: Well, let's explore it.

By Mr. von Holst:

Q. Were you present when Mr. Barker asked Mr. Stokley not to write to him? A. No, he said that he wrote—now, wait—just asked him not to write him, I suppose.

Q. Well, did you hear Mr. Barker tell Mr. Stokley not to write him? A. No, but he told me, right in the presence 6656
of his wife.

Q. Who told you? A. Mr. Barker,——

Mr. Harris: Well, I object.

A. —that he had written Mr. Stokley not to keep on writing those letters.

Mr. Harris: I move to strike out the testimony.

The Master: That isn't hearsay.

Mr. Harris: It certainly is.

The Master: No, she says Mr. Barker told her.

Mr. Harris: I know, but what was in his letter is hearsay, that he wrote him asking him not to write to him. The fact of writing a letter isn't hearsay, 6657
but what he wrote him is hearsay.

The Master: Well, I think that might be, but the fact that he told Mrs. Cole that he didn't want Stokley to write to him any more, or asked him not to, isn't hearsay.

Mr. von Holst: It has independent relevancy.

The Master: If that has independent relevancy; whatever is in any letter that he says he wrote would be hearsay and would be excluded.

Mr. Harris: Well, what he said he told Mr. Stokley is hearsay, too, so far as my client is concerned.

We are not trying Stokley. If we were trying Stokley it would be different.

The Master: Yes, I know.

By Mr. von Holst:

Q. Did Mr. Barker ever tell you anything about this investigation? A. I don't know——

Q. Well, did you ever hear Mr. Barker say anything about the investigation? A. I don't think he knew anything about it, only just what he had heard, also.

6659 Q. Now, on the last page of this letter Stokley writes to you: "Now Please don't know anything or they will pick you to pieces and have Mr. Barker up there at the . . ." something. A. Yes.

Q. And he goes on: "government don't mind expenses." Now, did Stokley ever tell you what it was that you weren't to know about? A. That I wasn't to know about?

Q. No, look, he writes you in this letter, "Please don't know anything—— A. I haven't talked to him since I received that.

Q. I understand that. A. About that.

Q. But at the time you received this letter——

Mr. Harris: Just a minute,——

6660

By Mr. von Holst:

Q. —or before that——

Mr. Harris: Just a minute, excuse me a minute. Did she say she didn't talk to Stokley since receiving this letter?

The Witness: Not about the letter. A few minutes ago I think I told you I hadn't talked to him at all since then—did I say that? One day he came up to my house, I think it was in the summer of '41,

and wanted the address of my oldest daughter, and I gave it to him.

By Mr. Harris:

Q. And that is all you ever talked to him about since receiving this letter? A. That I can remember of, I didn't see him to say a thing to—oh, yes, I did, yes, I just asked him to leave, to stay away and leave us alone, to stay away and leave all three of us alone.

By Mr. von Holst: 6662

Q. When was that, Mrs. Cole, about? A. I can just remember the year—just let me think a minute.

Q. Yes. A. It was in the summer of '40, 1940, because I was employed with Mrs. Page.

Q. That was before he wrote this letter? This is dated December 19, 1940. A. Well, see, I worked there in '40, I know. He must have wrote that letter afterwards, yes.

Q. Yes. A. I can't remember—I remember that—I think that is the last words I had with him, except that he came up to the house and wanted to know the daughter's address, did I object to sending her some fruit, or something like that, I told him no, I didn't, but I didn't want him to send any 6663 money or anything like that; I had her in college, she had worked part of the way, if she had too much money it would spoil her.

Q. Now, immediately before this letter—this is in December, 1940, Mrs. Cole,—— A. Yes.

Q. —before that letter was received by you— A. Yes.

Q. —did you have any trouble with Mr. Stokley? That is to say, was there a quarrel? A. Yes, there had been plenty.

Q. Immediately before that, were you quarreling more or less all the time? A. Well, let's see, this is '40, wasn't it? Well, I come here to answer the questions you asked me

honestly. I was through the life that I was leading with him, through fear.

Q. Well, let me say, Mrs. Cole, right now, that I don't want to pry in your affairs at all. A. Anything you want to ask me, I am willing to answer.

Q. Well,—— A. Now, remember that.

Q. —I want to be as considerate as possible, and I don't care about that at all. A. Yes.

Q. I just wanted to know whether there had been any ill feeling—— A. Yes.

6665 Q. —between you and Stokley prior to the receipt of this letter? A. Certainly; there is.

Q. Had he accused you of keeping money that was coming to him? A. Keeping money that was coming to him?

Q. Yes. A. No, not that I remember of now.

Q. He never told you—— A. He has accused me of so much, and said so much, he would produce a letter, probably, if he had I wouldn't be surprised.

Q. Let me ask you, did he accuse you—— A. I have never seen those (indicating).

Q. —of having collected this three notes—— A. No, sir,——

Q. Just a minute, now.—Universal Exhibits 17A, B and
6666 C, and keeping the money? A. He has never accused me of it.

Q. He never said that to you at all? A. No, I have never seen those notes—I must have, to sign them, but I didn't know anything about it.

Q. When you received this letter, Mrs. Cole, did you know what he meant when he said, "Please don't know anything"? A. Oh, yes, because I knew he had been questioned.

Q. Well,—— A. I will get myself mixed up.

Q. No, I don't want to mix you up at all, I just wanted to ask whether you understood what he meant by not knowing anything, that you weren't to know anything if they came questioning you. What was he talking about? A. If I knew anything about his business, I suppose.

Q. That is the way you understood it? A. I imagine it is.

Q. Well, is that the way you understood it at the time? A. I guess so.

Q. Yes. Now, in this statement that he makes, "They will pick you to pieces and have Mr. Barker up there",—— A. Yes.

Q. —did you know why he was afraid that Mr. Barker would be called up before the Government? A. Oh, yes.

Q. What was the reason? A. Let me start, now, I have to start back

Q. O. K. A. Well, when I got through with my life with him, he and his wife were the friends that stuck with me, in 6668
fact, they had stuck with me beforehand, and he knew that there was a change in me, through their associates, of these two people.

Q. Which two people? A. Mr. and Mrs. Barker.

Q. Oh. A. And he just—his dirtiness, and he like to throw it up, that it was he that I was interested in. Well, I won't tell any more of that.

Q. Well, let me ask you, Mrs. Cole, did Mr. Stokley ever tell you not to tell any one about Mr. Stokley's business dealings with Kaufman or Davis? A. No, I can't say he ever told me, I can't say that he ever told me at all—I guess it says in the letter there, don't know anything, is that right? 6669

Q. Yes. A. He wrote that.

Q. He says, "Now Please don't know anything". A. Yes, don't know anything, sure, that is the way he expressed it.

Mr. von Holst: That is all the direct examination.

Mr. Harris: Our side has no questions, Mrs. Cole.

By the Master:

Q. Mrs. Cole, I just wanted to ask you one thing, did you know anything about Judge Davis's business relations with Mr. Stokley at the time he wrote you this letter? A. Well,

I think I made the statement that I knew he borrowed money from, I thought—is his name Kaufman, or Hoffman?—Kaufman.

Q. Do you understand what he meant when he said in this letter that he made a mistake by sending a check to Judge Davis? A. Well, it sounded like there was something queer about it, to me, just what it sounds to me.

Q. But you didn't know what it was? A. No, I wouldn't have known it. Now, when he gave me the money at Virginia Beach, or rather, Norfolk, at his son's home, Paul—I believe that is where it was—I don't know, he was giving it to
6671 Judge Davis, and whether he would turn it over to Kaufman, I don't know, I never knew.

The Master: That is all.

Mr. Harris: I will offer this.

(Agreement dated September 9, 1927, between Barker Poster Adv. Co. and C. L. Stokley was marked Universal Exhibit 23.)

Mr. Poore: We offer in evidence as Amici Exhibit 244 the typewritten description of the Stokley papers
6672 which was compiled by Mr. McCullough and myself, during the occasion of our examination in Master White's office on March 16, 1943.

Mr. Harris: Well, what is the object of this?

Mr. Poore: The purpose is merely to show that on that occasion we did examine the papers described in this document and that those papers, the order books, the black book, and so on, contained nothing pertaining to Davis and Kaufman. The effect is purely negative.

Mr. Harris: Neither does the City Directory contain anything in reference to Davis and Kaufman.

Mr. Poore: However——

Mr. Harris: I don't see the relevancy of that.

Mr. Poore: —if you recall Mr. Stokley's testimony did indicate that those papers would contain a ledger or something which would show to whom he made payments, and what date, and so on.

Mr. Harris: I don't recall exactly what he said.

The Master: Well, I don't think it can do any harm.

Mr. Harris: I think that Mr. McCullough, who went over this, should make a statement. 6674

The Master: All right.

Mr. McCullough: I prepared this statement, and as far as we know, all of the documents mentioned here were in the box, but this statement is not to be taken to mean that if it is not specifically mentioned here, there wasn't a piece of paper in the box. If anybody has seen them, there were thousands of pieces of paper; we attempted to group them and pass pretty summarily over early things, and collaborated the groups into as few categories as possible. While what is actually described is there, it is not all inclusive; that is, every piece of paper was not described.

Mr. Thiess: But, as I understand your statement, 6675 there is no big item, such as a ledger or a book,——

Mr. McCullough: That is correct.

Mr. Thiess: —or anything of that kind in that box that is not incorporated in this schedule.

Mr. McCullough: That is correct.

Mr. Thiess: There might be some incidental paper——

Mr. McCullough: That is right.

Mr. Thiess: —that was not incorporated.

Mr. McCullough: And, further, the descriptions of the groups are not intended to be an accurate listing.

6676 *Colloquy*

Mr. Thiess: That is all right.

Mr. McCullough: They are just a general description of the type of paper. I will agree there was no so-called ledger, or any book, as such.

Mr. Poore: In other words, those papers we found which either of us considered material were specifically referred to in this list.

Mr. McCullough: That is correct, but it is not intended to be an all-inclusive list of everything that was in the box.

6677 (List entitled "Description of Stokley Papers in Office of White & Staples, Philadelphia", dated March 16, 1943, was marked Amici Exhibit 244.)

Mr. Poore: We offer as Amici Exhibit 245 a letter dated January 29, 1941, to C. L. Stokley from Morgan S. Kaufman, which was contained in the batch of papers.

Mr. Harris: Your Honor, without encumbering the record, I understand I have a continuing objection.

The Master: Yes, you have an objection to the relevancy of all the testimony.

6678 (Photostatic copy of letter dated January 29, 1941, from Morgan S. Kaufman to Mr. C. L. Stokley, was marked Amici Exhibit 245.)

Mr. Poore: We offer as Amici Exhibit 246 a letter dated March 10th, 1941, to C. L. Stokley, from Morgan S. Kaufman.

(Photostatic copy of letter dated March 10, 1941, from Morgan S. Kaufman to Mr. C. L. Stokley, was marked Amici Exhibit 246.)

Mr. Poore: We offer as Amici Exhibit 247 a cancelled check dated March 23, 1941, payable to the order of Morgan S. Kaufman and signed C. L. Stokley.

and bearing the notation on its face, "on Interest"; also the photostat of the reverse of the check.

(Photostatic copy of check dated March 23, 1941, from C. L. Stokley to the order of Morgan S. Kaufman, for $400.00 was marked Amici Exhibit 247.)

Mr. Poore: We offer as Amici Exhibit 248 a photostatic copy of a document entitled "Stokley Payments to J. W. D.", bearing in the upper left-hand corner the initials WHG:ASB. This document was found in the custody of the U. S. Attorney at New York, and is 6680
offered to show what payments to Davis the Government had knowledge of and what checks were in the Government's possession.

Mr. Harris: They are not to prove those payments, but merely to show knowledge by the Government of those payments, is that right?

Mr. Poore: To show knowledge of these payments, yes, sir.

Mr. Harris: But, of course, they do not prove—this document does not prove those payments.

Mr. Poore: No, no.

Mr. von Holst: It is not offered for that purpose. 6681

Mr. Harris: We don't know, of course, whether that is all the knowledge that the Government had or not. Presumably it represented the knowledge as of the date of the document. They may have acquired additional knowledge later. I know Mr. Gahagan, and I think it might be expected that he would be drawing supplemental and additional memoranda.

Mr. von Holst: Well, there were no——

Mr. Poore: That is the only such memorandum found.

6682 *Colloquy*

Mr. Harris: That is right, also knowing Mr. Gahagan, I think it is very likely that they would not be in the file.

(Photostatic copy of list entitled "Stokley Payments to J. W. D." was marked Amici Exhibit 248.)

Mr. Poore: We offer as Amici Exhibit 249 a statement from the Jefferson Hospital showing the dates of admittance and discharge of Judge Davis, during April, 1936.

6683

(Letter dated April 3, 1943, from N. S. McBerty, Record Librarian, Jefferson Hospital, To Whom It May Concern, was marked Amici Exhibit 249.)

Mr. von Holst: If the Master please, we have two exhibits comprising original letters and copies of letters handed over by Judge Davis, these being Amici Exhibit 109 and Amici Exhibit 114. It was agreed that these papers be returned to Judge Davis, and we would like to do so, but we do want to make this statement on the record, that these two letters, Amici Exhibit 211 and Amici Exhibit 212, which are letters

6684

from Stokley to Kaufman, dated May 11, 1938 and April 7, 1937, are the only two letters from Stokley in the correspondence, that has been turned over by Davis or Kaufman or Stokley, that are in pencil, and the only way we could prove that, unless we make that statement, would be to have these originals kept here.

Mr. Harris: Well, we will concede that. We concede that, Mr. von Holst,——

Mr. von Hofst: All right.

Mr. Harris: —if that is the fact.

Mr. Thiess: That is the fact.

Mr. Harris: All right.

Mr. von Holst: I would also like to point out, while we are here, on this Amici Exhibit 212 it is very evident that the caption "Mr. Morgan S. Kaufman, Ambassador Hotel, New York City" was written after the first line, at least, of the body of the letter, as appears from the way that the "Y" of New York is written over the word "inform".

Mr. Harris: Information.

Mr. von Holst: Yes, over the word "information."

Mr. Harris: Well, that is your argument. 6686

The Master: Are you going to return these to Judge Davis?

Mr. von Holst: Those two letters should be returned, also. They were photostats, were they not?

Mr. Poore: Those two letters were produced by Mr. Kaufman.

Mr. von Holst: Oh.

Mr. Thiess: So there is no need to return those at the present time. We will return those Davis letters.

Mr. von Holst: Amici Exhibits 114 and 109.

The Master: I wonder about the method of returning those to Judge Davis. Are you going to do it?

Mr. von Holst: Any way that the Master suggests. 6687

The Master: If you will do it that will relieve me.

Mr. Thiess: When Judge Davis was on the stand he asked particularly that they be returned. I wasn't here at the last session, but he talked about not having received these letters. We want to see that he gets them back.

The Master: If you will do it all right.

Mr. Thiess: We will take care of it.

The Master: These two letters are you going to send back to Kaufman?

6688 *Colloquy*

Mr. Thiess: I think we might as well keep those.

Mr. von Holst: Yes, I think we should keep those. He made no request that they be returned.

Mr. Thiess: As a matter of fact, he said we could keep them.

Have you anything further to offer?

Mr. Harris: No.

The Master: Is the case entirely closed?

Mr. Thiess: Depending upon whether Universal has anything.

Mr. Harris: Have you closed?

6689 Mr. von Holst: We rest.

Mr. Thiess: We rest.

AMICI CURIAE REST

Mr. Harris: Your Honor, so far as I know we have nothing to offer. Of course, I again say that we are not properly before any court in any controversy that is subject to judicature, but we have been here to aid as far as we could this very laudable investigation in the interest of Mr. Thiess' and Mr. von Holst's

6690 clients and in the interest of justice in general, and I think that our attitude has been constructive. We have not tried to hold anything back, and wherever we could furnish information we attempted to expedite the hearings.

The Master: Yes.

Mr. Harris: I think in the case of one of those compilations of this morning we wanted to check, I think that exhibit was admitted subject to our verification, and I think there may be one or two other things where we have made similar reservations throughout the record, but that I do not anticipate

will involve any corrections, because I am sure what has been handed us is correct, but with that reservation we cannot think of any information or testimony which we could produce which would aid or assist the Master and the Court, and consequently we state that we have none. We have ransacked our brains and those of the various witnesses and persons whom we have any contact with, and again I disassociate myself from Judge Davis, Kaufman, Mr. Stokley, and anyone other than those connected with the Universal Company, and we cannot think of anything that has not been brought out which would be helpful. It is unfortunate that Mr. Belknap is dead, that is our misfortune, but we think that we have made available and produced everything that we know of that would be useful in the hearing, so we have nothing further. 6692

The Master: Well, then, you will have your briefs filed.

(Discussion off the record.)

Statement by the Master.

6693

Following upon the closing of proofs, Universal offered in evidence as its Exhibit 30 a photostatic copy of the office receptionist's record of Universal's New York office for September 12, 1935. In view of this offer, Amici requested the production of all other such records for the years 1933 to 1936, both inclusive. Universal supplied said records for the period in question, but only for inspection by the Master, noting an objection to their inspection by Amici. Amici requested, in view of the foregoing, that the Master should examine said records and state whether they disclose any reference to Morgan S. Kaufman on certain specified dates

6694 *Statement by the Master.*

during those years or any other references to him during said period. Accordingly, I make the following statement as the result of my examination of said records.

I.

I have inspected the records submitted to me by counsel for Universal as the desk books kept by the receptionist in Universal's New York office for the years 1933 through 1936, inclusive, and there are no missing pages for the period in question and no evidence of any omissions, but I have made
6695 no attempt other than by an examination of these records to determine their completeness or whether there are such omissions.

For the following specific periods and dates concerning which the Amici have inquired, said records show the following:

(1) During the ten week days immediately following and including May 10, 1933, the date of the death of Frank L. Belknap, Mr. H. J. Halle, Universal's President, made and received telephone calls to and from identified persons, but there is no reference
6696 to any telephone call to or from Mr. Kaufman or to anyone with initials corresponding to his. On Friday, May 12th, there are two entries as follows:

"Mr. W. J. Belknap phoned H. J. H." and
"Mr. W. G. Belknap called on H. J. H."

(2) During the ten week days immediately following and including April 27, 1934, this being the date of Judge Nield's decision in the Root case, Mr. Halle gave and received telephone calls to and from identified persons between the dates of April 27th

and May 7th, both inclusive, with the exception of Saturdays, and during this period there is no reference to any call to or from Morgan S. Kaufman or anyone with initials corresponding to his. During this period the records show numerous telephone calls to and from various counsel in the Root case, and on Wednesday, May 2nd, calls at Universal's office by several of said counsel. The records indicate that on Tuesday, May 8th, H. J. Halle was in Cleveland, Ohio, and that he was again in his office on Friday, May 11th, and that he gave and received telephone calls to and from identified persons, but there is no reference to Morgan S. Kaufman. 6698

(3) For the days of December 13, 14, 15, 17, 18, 19, and 20, 1934, there is no reference on the records to Morgan S. Kaufman, or to anyone with initials corresponding to his. The record for December 13, 1934, shows that Messrs. Burrell, Engelstein, Seguy, Gary, Thomas, Haight, and Hall called at the office. The names of Mr. Swartwood and Mr. Mitchell are also mentioned. The record for December 14, 1934, also shows that some of the same gentlemen, including Judge Haight, called at the office, and it indicates that they were also there on the 15th (a Saturday), although there is no reference to Mr Halle on this date. The next reference to Judge Haight having called is on December 19th, although other counsel appear to have called on Mr. Halle on the 17th and 18th. 6699

(4) The record entry of April 15, 1935, reads: "Judge Haight called on H. J. H."

There is no reference to Mr. Kaufman, nor to any one accompanying Judge Haight.

6700 *Statement by the Master*

(5) During the week days in the period from August 1, 1935, to and including September 11, 1935, there is no reference to Mr. Kaufman or to anyone with initials corresponding to his. The first entry in August, 1935, is August 5th. There are other entries showing persons calling on Mr. Halle or telephone calls received or given by him to and from identified persons, on August 6, 7, 8 and 9, and August 12, 13, 14, 19, 20, 21, 26, 27, and 28; September 3, 4, 5, 9, 10, and 11. The omitted pages are blank.

6701 (6) The record for October 16, 1935, contains no reference to Morgan S. Kaufman, but does show that Mr. Halle received telephone calls from identified persons and calls from visitors on that date.

(7) On October 22, 1935, the record contains the following items:

"Mr. Kaufman phoned H. J. H." also
"Mr. Kaufman called on H. J. H."

(8) The record for March 10, 1936, contains the following entry:

6702 (Ambassador)
"H. J. H. phoned Mr. Morgan Kaufman" and
"Mr. Morgan Kaufman telephoned."

(9) The record for March 18, 1936, contains the following entry:

"Mr. Morgan Kaufman phoned H. J. H."

(10) The record for July 22, 1936, contains the following entry:

"Morgan Kaufman phoned by H. J. H."

 6703

(11) The record for December 1, 1936, contains the following entry:

"Mr. Morgan Kaufman called on H. J. H."

(12) The record for December 3, 1936, contains the following entry:

"Mr. Morgan Kaufman and Judge Haight here."

III.

6704

The said records for the period 1933 to 1936, both inclusive, contain no reference to Morgan S. Kaufman, or to anyone with initials corresponding to his, other than those entries hereinbefore specified.

6705

6706 **Letter by Ralph S. Harris Together with Enclosures**

5, August 6, 1943.

Thomas Raeburn White, Esq.,
1930 Land Title Building,
Philadelphia 10, Pennsylvania.

Re: Root Investigation

6707 Dear Mr. White:

Immediately after receipt of a copy of the letter to you of Messrs. Thiess and von Holst, dated July 29, 1943, in which they requested a copy of the so-called "Supplemental Memorandum" and the draft thereof sent Mr. Hall, all as disclosed by the entries in Judge Haight's bill for January 8, 9, 10, 11 and 12, 1935, I inquired of both Mr. O'Mara and Mr. Hall for the material requested. The delay has been occasioned by my dissatisfaction with the first report from them that no copy of any such memorandum or of any draft thereof could be found either in Mr. Hall's or Mr. O'Mara's firm's files or among Judge Haight's papers. I insisted that
6708 a further search be made and that Judge Haight's former secretary be contacted. The result is, I regret to say, that no copy is in existence so far as can be discovered.

Mr. Hall advised me that shortly after receipt by him of the draft, as indicated by Judge Haight's entry of January 9th, Judge Haight informed him that he had concluded not to ask for leave to file the memorandum.

Presumably, because of this, the drafts were destroyed. I am very regretful indeed that we are unable to be of any further aid in this respect.

We have, however, uncovered a letter which, I am informed by Mr. O'Mara, was sent on January 14, 1935 to

Judges Buffington, Davis and Thompson with copies to Mr. Thiess and to Judges Denison and Morris. We enclose herewith a copy of that letter and are annexing to it the paragraph from the opinion in Smith v. Snow, referred to by Judge Haight in his letter.

Very truly yours,

RALPH S. HARRIS

Enclosures
cc Messrs. Thiess and von Holst
Mr. Hall and Mr. O'Mara
RSH/MS 6710

6711

6712 *Letter by Ralph S. Harris Together with Enclosures*

COPY

Copy to: J. Bernhard Thiess, Esq.,
77 West Washington Street, Chicago, Illinois.
Hon. Arthur C. Denison,
Union Trust Building, Cleveland, Ohio.
Hon. Hugh M. Morris,
DuPont Building, Wilmington, Delaware.

January 14, 1935

6713 Root Refining Company
v.
Universal Oil Products Company

Dear Judge Buffington:

In connection with the above matter which was argued before the Circuit Court of Appeals on Monday last, we beg to call your attention to the decision of the Supreme Court in Smith v. Snow handed down on January 7th. We direct attention particularly to the first full paragraph on page 10 beginning with the words "Examination of the claim". It seems to us that what is said in that paragraph applies with peculiar emphasis to our case, particularly the last two
6714 sentences.

We are sending a copy of the opinion to Judge Thompson and Judge Davis with a similar letter and, of course, are sending a copy of this letter to our opponents.

Respectfully yours,

Hon. Joseph Buffington,
United States Circuit Judge,
Post Office Building,
Philadelphia, Pa.
Encl.

[Enclosure of quotation from *Smith* v. *Snow*, 294 U. S. 1, 79 L. Ed. 721, referred to in letter from Ralph S. Harris to Thomas Raeburn White, Esq. (R. 2236-7).]

"'Examination of the claim, in the light both of scientific fact and of the particular form in which the petitioner reduced the claim to practice as described in the specifications, makes it plain that the claim does not call for a particular order or arrangement of the eggs in staged incubation in the incubator, or that the propelled current should reach them in any particular order, or that it should be guided, controlled or directed by any particular means, 6716
or in any particular manner other than that it should be of sufficient velocity to produce the results prescribed by the claim. If the matter were doubtful, it is plain from what has been said that the character of the patent and its commercial and practical success are such as to entitle the inventor to broad claims and to a liberal construction of those which he has made. *Moreley Machine Co.* v. *Lancaster*, 129 U. S. 263, 273-277; *Eibel Co.* v. *Paper Company*, 261 U. S. 45, 63; *Winans* v. *Denmead*, supra, 341. In such circumstances, if the claim were fairly susceptible of two constructions, that should be adopted which will secure to the patentee his actual invention, rather than to adopt a construction fatal to the grant. *Keystone Manufacturing Co.* v. 6717
Adams, 151 U. S. 139, 144, 145; *McClain* v. *Ortmayer*, 141 U. S. 419, 425.'"

6718 **Memorandum Made by Master Upon Examining Certain Documents, etc.**

The following documents were filed as part of the Record by the Master although not offered in evidence by Amici Curiae or Universal Oil Products Company.

IN THE

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE THIRD CIRCUIT

Nos. 5546 and 5648.

6719

October Term, 1940.

ROOT REFINING COMPANY,
Defendant-Appellant

v.

UNIVERSAL OIL PRODUCTS COMPANY,
Plaintiff-Appellee

MEMORANDUM MADE BY MASTER UPON EXAMINING CERTAIN DOCUMENTS IN THE OFFICE OF THE UNITED STATES ATTORNEY IN NEW YORK AND
6720 CONTAINING EXTRACTS FROM THE TESTIMONY OF MORGAN S. KAUFMAN AND J. WARREN DAVIS BEFORE THE GRAND JURY

I examined statement of J. Warren Davis taken before the United States Attorney on July 3, 1940. In this statement there is no reference whatever to the Stokley loan or the oil cases, or to Kaufman's connection with them. The Examination related largely to Davis' bank account and the $5,000 bills which figured in the prosecution.

I have also examined Judge Davis' statement taken before the same persons on September 9, 1940. This statement con-

6721

tains no reference of any kind either to the Stokley loan or to the oil cases.

There are only two references in the statement which might possibly have some bearing on the instant investigation. In the course of Judge Davis' investigation, a letter was shown him from Root, Clark, Buckner & Ballantine, dated July 3, 1940, in which it was said were enclosed several sheets being a summary of cash deposited and withdrawn from safe deposit boxes by Judge and Mrs. Davis during the period from January 1, 1932, to January 1, 1940. Judge Davis said the memorandum was substantially correct, and was cross-examined at some length concerning his financial transactions. A copy of that memorandum no doubt could be secured from Root, Clark, Buckner & Ballantine if thought material.

6722

Many of the transactions about which Judge Davis was asked related to the period prior to 1935. The safe deposit box in which Judge and Mrs. Davis kept money appears to have been in the vaults of the Philadelphia Savings Fund Society.

There is also a statement by Marguerite G. Davis (Judge Davis' wife) taken September 9, 1940, referring to the same matters, and more particularly to a loan which was made in 1936 to one David Lewis. So far as appears, this has no connection with the oil cases or with Mr. Kaufman. The loan in question appears to have been made from money in the safe deposit box in March of 1936, and was in the amount of $4300 or $4400. Mrs. Davis said the money had been repaid.

6723

Mrs. Davis also corroborated the correctness of the memorandum above referred to as cash deposited and withdrawn from the safe deposit box. This examination related mainly to the $1000 bills which figured in the trial of Judge Davis.

6724 *Memorandum Made by Master Upon Examining Certain Documents, etc.*

A memorandum which accompanied the above statements apparently made as a result of the investigation indicates that Judge and Mrs. Davis were insolvent from 1929 on, that they were continually borrowing money from friends and banks, and at the same time Judge Davis was making loans to others, particularly David Lewis.

Their indebtedness to banks which amounted to $157,000 was said to have been adjusted by cash payments of $37,000 made by one Samuel Ungerleider, who was apparently a stock broker. It was stated in the memorandum that the
6725 money to make this settlement was loaned by Ungerleider, his explanation being that he did it out of friendship for Judge Davis.

This compromise settlement was made in May of 1937. There was also the surrender of collateral amounting to $57,000, so that the loss to the banks was approximately $61,000, according to the memorandum.

This memorandum states that the F. B. I. had attempted to reconcile the cash available to Judge Davis from all sources with the cash actually expended by him. The memorandum said that approximately $17,000 of cash was expended in excess of the cash available to Judge Davis so far
6726 as known, and that no explanation had been made. This reconciliation apparently related to the period 1936 to 1939, inclusive.

The memorandum also contains a section relating to the Stokley transaction. It describes the loan as shown in the papers which we have, and states that:

> "Judge Davis had continuously interested himself in attempting to settle Stokley's obligation with the municipality which held the lien upon Stokley's property."

There is nothing new in the memorandum except perhaps a statement that in 1936, within six months from the time

the loan was made to Stokley by Kaufman, Davis made a loan to Stokley by borrowing $4,000 from Ungerleider. This loan is said to have been repaid.

EXTRACTS FROM THE TESTIMONY OF MORGAN S. KAUFMAN IN THE CASE OF U. S. v. JOHN DOE, BEFORE THE GRAND JURY IN NEW YORK ON FEBRUARY 20, 1940.

Kaufman was asked to give a list of the cases on which he had acted as counsel from 1930 to date. He made out a list 6728
and testified further as follows, page 577:

> "A. I think I have submitted a case here where I was not really attorney of record, and that is the Universal Oil Products Company vs. Root Refining Company. I was not attorney of record in that case except I was retained in the case."

The witness was not asked further about this case at that time. At page 580 the witness was asked:

> "Q. Is it your practice to keep a bill book? A. No.
>
> Q. Do you keep records of the amount of work 6729
> you have done on a particular matter? A. Very seldom."

The witness said he had not kept a diary except for about a year before the examination. He also said he kept no record of the work he had done on any particular case.

The witness denied that he had any records in Pennsylvania, although he said he still had "office room" in Pennsylvania.

The witness was recalled on March 6, 1940, and states on page 600 that he knew Judge Davis quite well, that he was "a close friend." He denied that he ever had any business

6730 transactions with him. The following questions and answers appear:

"Q. Did you ever have a financial transaction with Judge Davis? A. Not that I can recall.

Q. Did you ever lend Judge Davis any money? A. Not that I can recall.

Q. You did have a financial transaction in which Judge Davis was interested in, didn't you? And that is what I call the Stokley transaction. A. I don't

6731 see how he was interested.

Q. Tell me about this, you know what I refer to when I state the Stokley transaction? A. Yes.

Q. Did—would you start right at the beginning and tell me all that you know about that transaction? A. I met Judge Davis either on the train or somewheres and he asked me whether I wanted to make an investment, whether I had some loose money I wanted to invest. I said yes, Judge, what have you got in mind?

He said I have a relative that owns some property down in Florida, and there are liens against this property to the extent of $30,000. He may have said

6732 $29,000 or $30,000. And he can settle the tax liens for $10,000.

He went on to tell me about it. I said well, Judge——

Q. Wait a minute, I don't want to skip anything. What did he go on to tell you about him? A. I can't recall, that was five years ago. I said, Judge—he said I don't know the details about this property.

I said who is this man?

He said he is a relative of mine, whether he said a cousin or whatever it was. He said do you know the rate of interest in Florida is 8%, the legal rate of interest.

Memorandum Made by Master Upon Examining Certain Documents, etc. 6733

I said that is very interesting, I will look into that whenever you have the details.

He said I expect him here some time this fall and when he gets here I am going to give you a ring; I want you to meet him. That was about all that was said at the first meeting.

Q. You say you met Judge Davis on the train? A. I think it was on a train.

Q. About when was this? A. I think it was early in the summer of the year I loaned the money to him. 6734

Q. Could it have been any earlier than the summer? A. It may have been.

Q. Will you continue with your story? A. I had forgotten all about it months had gone by, and some time in October of that year I get a call from Judge Davis, he said Mr. Stokley, the man he had spoken to me about that wanted the loan, was there and he would like to have me come up. This was while I was in New York. Whether I went up that day or the next day, I am not sure, but I finally went up, and when I went in I shook hands with Judge Davis and he introduced me to Mr. Stokley.

Q. Had you ever seen Mr. Stokley before? A. 6735
Never met him before. After a few preliminaries about conditions in Florida and the weather there, he said you gentlemen have some business to discuss. This is the gentleman I was telling you about. All I can say to you, Mr. Kaufman, is any statement Mr. Stokley makes, you can rely upon. He says you gentlemen go work in the library, and we walked in there and we found Mr. Lord there, who is the U. S. Attorney of New Jersey, or first assistant.

Q. What was he then? A. He was the law clerk of the Judge. I had met him before, I had learned he was a very able man, and as he was leaving I said

don't leave, Mr. Lord, there may be something I would like to confer with you on.

So he stood there and Mr. Stokley told us exactly what he had to offer, the property he had consisting of so many lots and so many buildings, and there was a lien, a municipal lien.

So, I think he said $30,000, and that he could settle that for about $14,000, that he could raise $4,000 himself if he could get someone to advance him $10,000 he could settle with the borough for that sum
6737 of money—for that amount of money, and the borough would give him, the person who loaned him the $10,000, the deed.

He then said my wife and I own some property that is free and clear of all liens and encumbrances, the house we live in, and there was a block and some sort, orange grove. This was worth a great deal of money. He said we will put that up as further collateral security. We would like to have this loan for five years. All I want is an agreement from you that I have the right to repurchase it within a period of five years for the $10,000 plus interest, and I think
6738 he said we will make payments on the principal of $2500 a year.

After talking it over a while, I said, what about the search of this property, what about the title?

He said my lawyer will search the title.

I said that is not quite satisfactory to me. Are you willing to pay the expenses of Mr. Lord to go down and search the title?

He said I am.

I said Mr. Lord, would you be willing to go down there?

He said I would be very glad to go to Florida.

Memorandum Made by Master Upon Examining Certain Documents, etc. 6739

We decided the thing to do was to draw an agreement. He had all the papers there, and we drew an agreement. This agreement provided just as I have related to you, that he was to transfer all this property to me together with all the property he and his wife owned in fee simple free and clear of all liens and encumbranees as further collateral security, and that he was to pay it back within five years plus 8% interest

While we were dictating this agreement, it was 6740
getting late, and I said Mr. Lord, understand this thoroughly, work up this agreement and send it to me in New York, and if this agreement is satisfactory, just in accordance with what he said here, I will sign the agreement and send a check, certified check for $10,000 made out to B. F. Lord, attorney. You go down to Florida. If the title is just as Mr. Stokley says it is, and if the Borough of Mt. Dora is willing to transfer this property to me for $10,000, and you make a search of the property and see that everything is O. K: you go-ahead and deliver this check.

I got the agreement——

Q. Who sent it to you? A. Mr. Lord, and I signed 6741
the agreement, and I made a check payable to B. F. Lord, attorney. I had the check certified, mailed it to Mr. Lord, and later on Mr. Lord sent me back the deed from the Borough of Mt. Dora for this property that they have sold for the taxes for $10,000, and a quit claim deed from the husband and wife, a warranty deed from the husband and wife to me of the other property which he was to give me as collateral security. He sent me back a guaranteed search of the title to the extent of $10,000 from the Florida Title & Trust Company, and also sent me a fire insurance policy on his own home to the amount of

$4,000. I think that is exactly what took place there. I have the check here if you would like to look at it.

Q. Yes, I would.

(Witness produces check.)

A. I also have with me—the check, by the way, is endorsed Pay to the order of the Town of Mt. Dora B. F. Lord, attorney, and I think to the credit of the Borough of Mt. Dora, I am not sure.

Q. Have you your subpoena? A. I don't think I
6743 have it with me. I also have with me the deed from the Borough of Mt. Dora to Morgan S. Kaufman, dated the same date, the 25th of November, signed by the Town of Mt. Dora by the Mayor of the town for the sum of $10,000.

I also have with me a quit claim deed for the same property that the Borough of Mt. Dora gave me the title to from husband and wife of Mr. Stokley, all marked B. F. Lord, endorsed.

I also have with me a warranty deed from Mr. Stokley and his wife for his own home and some tenement houses and two tenement block store buildings
6744 which were given to me as collateral.

I have the title policy of insurance issued by the Title & Trust Company of Florida, Jacksonville, Florida, guaranteeing the title to the extent of $10,000, and I also have the fire insurance policy on the home for $4,000, and together with this agreement which was made at the time. I would be very glad to have you look at any one of these.

Q. Did you ever prepare a statement, I mean in the legal sense, describing this Stokley transaction? A. I did.

Q. How did you happen to prepare that? A. Senator George Wharton Pepper of Philadelphia called

Memorandum Made by Master Upon Examining Certain Documents, etc. 6745

me on the telephone and said would you mind preparing a statement for me? I want to take it down to the Department of Justice. There is some question going on about a loan that you made to a man by the name of Stokley. This is in reference to an investigation going on in reference to Judge Davis.

I said I will be very glad to prepare the statement, which I did prepare, and later he told me he talked to the Department of Justice.

(Statement marked G. J. Exhibit 43, and copy marked G. J. Exhibit 44.) 6746

Q. I show you Grand Jury Exhibit for identification 43, and ask you if this is the statement you prepared for Senator Pepper? A. It is.

Q. Are the facts as stated therein true and correct? A. Absolutely, that I can recall, I think they are substantially what I said today, and they are true.

Mr. Willauer: I offer it in evidence.

The Witness: It may not be the exact words, but it is substantially true.

6747

Q. This is a true story? A. No question about it.

Q. You mean there might be a typographical error? A. Yes, I mean I might not use the exact verb or the exact word, but otherwise the statement is absolutely correct.

Q. I show you Grand Jury Exhibit 44 for identification. Will you tell me whether or not that is a carbon copy of the statement. A. It looks like it.

Q. This $10,000 check which you have produced is a check on your account? A. A check on the Public National Bank & Trust Company.

Q. It is a check on your account? A. Yes, sir.

6748 *Memorandum Made by Master Upon Examining Certain Documents, etc.*

Q. I wish to read from your subpoena. It calls for all cancelled checks and check stubs for bank accounts in your name individually or as trustee for the period from January 1, 1935, to date. This is such a check, is it not? A. Yes, you have it—my stub, the check book.

Q. That check then was called for by the subpoena? A. Yes. These were all put together and have all been together in the vault for several years.

6749 Q. Are there any other checks which you have not produced for us? A. Unless the young lady didn't give it to me; I gave her the subpoena and said give me everything you have got here.

Q. I would like to read you the last paragraph of this statement, that is, the last paragraph. There is one sentence in addition. Perhaps you will read it to the jury.

(Mr. Kaufman reads from statement.)

Q. Have you any occasion to discuss this matter with Mr. Lord? A. I have never talked to Mr. Lord about this matter, that day until this,

6750 Q. How do you know the facts can be verified by Mr. Lord? A. He has got to tell the truth.

Q. You have not communicated with Mr. Lord with reference to the facts since you had the meeting with Lord and Stokley? A. What do you mean by communicating?

Q. You understand that word, don't you? A. Do you mean by word of mouth?

Q. I mean in any way. A. Yes, I think at the time I was ready to take that statement to Senator Pepper I mailed Mr. Lord a copy of this agreement or this statement.

Q. Did you write him a letter when you mailed it? A. I think I said I am enclosing herewith a statement, something of that sort.

Q. What was your purpose in doing that? A. I knew if there was any corrections to be made, I know there was a man who would correct me because I wanted to tell the absolute facts in connection with this matter. I had nothing to conceal.

Q. Then you did, as a matter of fact, communicate with him? A. I communicated but—I sent him that, that is the only time I have ever—that was the only time with the hope if there was any correction Mr. Lord would call me back and say so. 6752

Q. You asked him to do that? A. No, I just said I am herewith enclosing a statement.

Q. I want to go back to your conversation which you think may have occurred on the train with Judge Davis when he first approached you on the possibility of your advancing some money to Mr. Stokley. You say you think that was in the summer time of 1935? A. That is my judgment today.

Q. You said the Judge asked you whether you had any loose cash? A. Whether I had any money to invest. I don't recall the exact words. 6753

Q. At the time of this conversation did you have any loose cash to invest? A. I had plenty of money on hand.

Q. My question was cash. A. What do you mean by cash?

Q. What do you mean by cash? A. You mean cash in the bank or cash in hand?

By Mr. Correa:

Q. Cash on hand or in bank. A. I had cash in bank and cash on hand.

Q. May I ask you how much you had on hand and in banks at the time? A. I should have $50,000, $60,000, or $75,000.

Q. More than $50,000? A. My impression is it was more than $50,000.

Q. How much more do you think it was? A. I can't tell. I can tell by looking at the record. You are asking me in 1935.

Q. I want your recollection. A. I couldn't tell you without looking at the record. It was around
6755 $50,000.

By Mr. Willauer:

Q. At that time did you tell the Judge that you were willing to make the loan? A. No, I did not.

Q. What conditions did you impose? A. I didn't impose any conditions because he didn't know the entire condition of the loan. He had been down there, he said, and this fellow needed money, and he had some property, and he thought the property was ample security, but he didn't know the details.

Q. But in any event at the time this conversa-
6756 tion took place you did have in your bank something over $50,000? A. In different banks, not in one bank.

Q. Did you communicate with the Judge in any way before the time of your first conversation and the time when you met in the Judge's chambers and talked to Mr. Stokley about this transaction? A. I don't believe I did.

Q. Don't you know whether or not you did? A. My impression is I never talked to him about this matter.

Q. Do you remember how my question was phrased, communicate? That will include any form of commu-

nication. Did you or did you not? A. I would say no, to the best of my recollection and judgment. 6757

Q. Then at this conference in the Judge's chambers you agreed with Mr. Stokley to make the loan? A. On the conditions as outlined, provided everything was as he stated, and provided the title was as he said.

Q. When did this meeting occur in Judge Davis' chambers? A. This check is dated the 14th of November. It may have been a couple of days one way or another. It may have been around the 12th of November. 6758

Q. A very few days before? A. I think so.

Q. Now, let me take your situation financially at the time you made this agreement. About how much cash did you have either in banks or in the form of cash at that time? A. I must have had, I never had less than $50,000 or $60,000, may have had more and may have had less.

Q. That is exclusive of the cash you may have had outside? A. I may have had some few thousand dollars cash. We had some cash always put in the banks. We had all—we had $50,000 or $60,000.

Q. It was your practice to keep some cash in the form of currency in addition to what you had in the bank? A. Always. My father did it—— 6759

Q. I am asking you. A. Always.

Q. Where did you keep that cash? A. In the vault.

Q. What vault? A. Different vaults.

Q. Give us a list of the vaults you had in 1935. A. I had a safe deposit box in the Chemical, I think it is the Chemical, it is right opposite the Federal Bank on Liberty Street.

6760 *Memorandum Made by Master Upon Examining Certain Documents, etc.*

Q. Chemical Safe Deposit Company? A. I really don't know the name.

Q. Have you told us all you can to help us identify it? A. I think it is 32 Liberty Street.

Q. That is one. Any more? A. In 1935 I had two safe deposit boxes in Scranton in the First National Bank.

Q. In whose name was the box in the Chemical Bank? A. That is in the name of David E. Kaufman and Morgan S. Kaufman. Either of us had a right to
6761 go into the box.

Q. The same information as to—— A. (Interrupting) I think the same holds true with every box I have ever had.

Q. You had two boxes in the First National Bank of Scranton? A. I had it first in the Third National Bank of Scranton.

Q. Any more? A. I had a box right under my office in the Anthracite Trust Company. It is out of business now.

Q. In what city? A. Scranton.

Q. Any others? A. That is all I can recall. You
6762 are speaking?

Q. 1935. A. I didn't have a box in the Anthracite Trust Company in 1935.

Q. When did you get that box? A. I had that long before. That went out of business around——

Q. You no longer had that? A. No, just the two boxes in the First National Bank, and I think I had one in the Third National Bank at that time.

Q. Did you get any new boxes in 1935? A. No, I didn't get any new boxes until I moved into the Bankers Trust Company Building.

Q. Where is that? A. In New York. I have a little office there and I took a box downstairs.

Memorandum Made by Master Upon Examining Certain Documents, etc. 6763

Q. About when? When did you rent that box? A. Some time in 1936 or 1937.

Q. Did you keep cash in all those boxes? A. I have had cash in all of them at different times.

Q. You said that you always had about $50,000 in your bank accounts, is that right? A. I think so. You are speaking of what year?

Q. 1935. A. I assume I had that. It may run $10,000 or $15,000 one way or the other. I would say I had practically $50,000 in the banks at that time. 6764

Q. In 1935 where did you have bank accounts? A. I had bank accounts in Scranton and in New York.

Q. Will you give us the banks? A. Public National Bank, New York City; First National Bank in Scranton; Third National Bank in Scranton. I think I have a savings account here that I have $10,000 or $12,000 in the Sterling National Bank, wherever that is located.

Q. Is it in New York? A. Yes. I gave it to a friend of mine. He was out getting deposits and I made the deposit, and they have been paying 1½%.

Q. I don't care about that.

6765

By Mr. Correa:

Q. Who is your friend? A. I can't recall. It is some years ago.

Q. How long ago? A. I could tell by looking at the book.

Q. Did you put $10,000 in? A. I think about $5,000, and then I added $3,000.

Q. You opened with $5,000? A. I think so.

Q. How did you come to meet anyone connected with that bank? A. I can't recall. Years ago they used to go out looking for accounts.

Q. How long ago was this? A. I can't recall. My bank book will show it. I can bring my bank book.

Q. You can't recall who solicited the account? A. No.

Q. Who handled your account while it was there? A. I don't know that.

Q. Have you still got the account? A. Yes.

Q. Have you had any communication with anybody in that bank? A. Every six months or every year my secretary sends the bank book in and they put the interest on and send it back. That is as far as I have gone with it.

By Mr. Willauer:

Q. This check, then, is on the Public National Bank & Trust Company? A. Yes.

Q. What was the status of your account in the Public National Bank & Trust Company at the time this check was drawn? About how much of a balance did you have? A. I couldn't tell you. My bank book will show.

Q. Was it over $10,000? A. I couldn't tell you. It must have been over $10,000, otherwise they wouldn't have paid the amount.

Q. Did you have a substantial balance in that bank all during the summer of 1935? A. I couldn't tell you without looking. I was never overdrawn.

Q. I notice that check is made out to B. F. Lord, attorney. Who did you say Mr. Lord was? A. He is the first Assistant United States Attorney in New Jersey.

Q. Who was he then? A. The law clerk for Judge Davis.

Q. He gave you his name so you could make out the check? A. I knew Mr. Lord, and I suppose he gave me his name at the time. 6769

Q. You don't recall having written down a notation of his name? A. I might have, I don't know. I don't think so.

Q. Did you know, as a matter of fact, his name was not B. F. Lord? A. I didn't know that. I assumed B. F. Lord was correct. He signed it B. F. Lord; I think the check is signed B. F. Lord.

Q. You told Mr. Lord was the man you had heard who was quite brilliant or some such thing. A. I think in a conversation one day with the Judge we discussed law clerks. I wanted to get—there was a fellow that wanted—— 6770

Q. Such information as you had on Mr. Lord came from what source? A. Judge Davis told me he was one of the ablest lawyers he had ever met.

Q. Is that why you wanted him to search the title for you? A. No, I wanted a man I had confidence in to search the title.

Q. Did he search the title? A. I don't know. He brought me back a guaranteed search of title.

Q. Your instructions to him were to go down and search the title? A. Yes. I said I wanted a guaranteed search of title. 6771

Q. Do you know whether or not he did search the title? A. I don't know. He sent me all these papers.

Q. You said the reason you wanted Mr. Lord to go to Florida was to search the title, and yet you say you do not know whether he did search the title. A. He sent me back the search of title.

Q. That is a title insurance policy? A. Yes.

Q. Was that what you asked him to get you? A. I don't remember whether I asked him that or not. My impression was he was to get a search of the title.

6772 *Memorandum Made by Master Upon Examining Certain Documents, etc.*

Q. Did you ever ask the Judge whether this man knew how to search a title? A. No.

Q. You never made any inquiry as to his ability in that respect? A. No, I don't imagine.

Q. As a lawyer you know the search of a title is a rather specialized job? A. It is and it is not. If you can follow the indices of the thing—I never searched a half a dozen titles in my life, yet I can search a title if I had to. It is more clerical work than anything else.

6773

Q. It is a little different in each state, isn't it? A. The indices are different, but there isn't much in searching a title.

Q. And who arranged for that title insurance policy? A. I don't know.

Q. You said there was an agreement made for allowing Mr. Stokley to pay this money back? A. Yes.

Q. And if I recall your testimony correctly, that agreement was worked on between you and Mr. Lord before you left to come back to New York, and then it was completed by Mr. Lord and sent by Mr. Lord to you in New York, and you signed it, is that right? A.

6774 Yes, sir.

Q. Then you sent it back to Mr. Lord? A. Yes, sir.

Q. Have you got a copy that you retained? A. This is a copy, I didn't retain it. I sent it back for his signature, and there are the signatures to it. I signed it in the presence of my two secretaries that day.

Q. Is that your signature? A. Yes.

(Paper marked G. J. X. 45.)

Q. You swore to this agreement? A. No, I don't think I did.

6775

Q. Did you acknowledge it before a notary public? A. I don't have an acknowledgment on my copy, I can't recall.

Q. Do you recall ever having acknowledged it before a notary public? A. I may have, I don't remember. I sign so many papers that I acknowledge.

Q. If you did acknowledge it I assume you did it at the time you signed it, did you not? A. I suppose so. I don't remember much about the acknowledgment. It was during that time I was acknowledging hundreds of papers for the Stronse Company.

6776

Q. Now, this Exhibit 45 that I showed you was acknowledged, and the date of the acknowledgment is March 18, 1937. I show it to you. A. I acknowledged it all right, I must have acknowledged it. They usually take my acknowledgment from the notary, we just send it over and they know my signature.

Q. Do you have any recollection of appearing before a notary public to acknowledge that? A. No, but this is my writing, and the acknowledgment New York—that looks like my writing.

Q. At least, you filled out the words in the acknowledgment? A. I must have acknowledged it because this is my writing; otherwise, I couldn't say whether it was or was not. The City of New York and the 18th of March is my writing.

6777

Q. That is well over a year after this instrument purports to be signed, is it not? A. Yes that purports to be—what date is that—the 18th of March, 1937? I must have acknowledged it. Evidently I must have sent it back. I didn't think he was going to record that. I see it is recorded. In our state we don't record those agreements.

Q. Do you have any recollection as to whether it was sent back? A. I have no recollection. I wouldn't

have known now if my handwriting hadn't been on there, but I can see what happened, he wanted to protect himself by having it recorded so I couldn't put any liens on the place.

Q. As a matter of fact, this is an agreement to redeem this property, isn't it? A. Yes.

Q. Without this agreement you, on the face of everything, owned Mr. Stokley's property free and clear without restraint? A. That's right. I had no
6779 right—I think in this agreement you will find I had no right to put any liens on this property. I never knew it was recorded until this minute.

Q. Have you any recollection as to the circumstances under which you acknowledged this instrument? A. I can't recall.

Q. You don't know whether or not you did in fact acknowledge it? A. I did acknowledge it because it is in my handwriting.

Q. Do you have any recollection of appearing before a notary public? A. I can't recall. No, I have no recollection now.

Q. In so far as you know about this thing—all
6780 you do know is that it does bear a notarial certificate and signature, and that in the clause having to do with the acknowledgment there are certain words in your handwriting? A. I must have appeared before the notary public because my handwriting is on that acknowledgment.

Q. A little while ago you told me you very often sent instruments over to a notary public and they would acknowledge those instruments without your being present. A. Yes.

Q. Could that have happened in this case? A. No, for this reason: I thought I did, but seeing that I filled it out myself I must have appeared personally; otherwise, I would have sent it, it might have been

sent out. My handwriting appears personally there. I must have been personally present.

Q. What makes you think that this instrument was signed on November 25, 1935? A. I think that was the date that they all agreed that all the papers were signed, on the 25th when I sent it. Let me have that again. I will tell you why. If I am not mistaken, I left that to my attorney. That 25 is not my signature, and I left that, and I left that to New York—I guess I wanted to have all papers conform to the same thing, to the 25th of November, all of them. 6782

Q. You say you left that with your attorney? A. Yes, I left everything to my attorney.

Q. What attorney was in on this transaction? A. What do you mean, what attorney was in on that? I left that to Mr. Lord. I sent this back to Mr. Lord.

Q. Was Mr. Lord the only attorney who had anything to do with this transaction? A. As far as I know.

Q. Is he the person you meant by that remark, you left it to your attorney? A. That is all I know. Certainly, I had no other attorney in this case, he took care of everything. 6783

Q. Judge Davis was shown a copy of this blank agreement, wasn't he? A. Not to my knowledge.

Q. Did you ever tell Judge Davis that you had agreed to make this loan? A. I don't think I did.

Q. Has any money ever been paid back to you by way of repayment on this loan? A. Paid, no.

Q. Has any interest ever been paid to you? A. Yes, he paid $200 in 1936, $200 in 1939, I think.

Q. Have you a record or some evidence of these repayments? A. Yes, it is in the bank, it is in my check book when it was deposited.

6784 *Memorandum Made by Master Upon Examining Certain Documents; etc.*

Q. Is this a record? A. No, these are two letters that he wrote to me in which he said that he couldn't pay it in 1938 because of the markets.

'May 11. For your information, have both the city, state and county taxes paid on my contract with you, but as you know, on December 20 we had a frost that damaged the orange crop and the markets are taken advantage. So, do not believe we will receive much of the remainder of our crop.
6785 I am doing my best. I believe with one or two good crops I can pay it. However, if you demand settlement I find I can get a loan here from a neighbor.

Thanking you for bearing with me thus far,

Very truly yours,

Stokley.'

This is in May, 1938 and in 1937 he wrote me,

'I am sorry to explain how little I realized out of my fruit crop, but as doubtless you know' I can't make out the word— 'has been in your northern market'. After all, taxes have amounted
6786 to almost $5,700. This, as you know, since you made me the loan.

I am going to do my best to make another payment on interest this year. I will be frank with you, I have made some payments on another obligation or I could have paid you more.

I shall do my best in the future and if I have one or two good crops and the fruit sells only fair price, I will be able to pay up in full, and I hope you will be patient with me, that I am doing my best.

Yours truly,

C. L. Stokley.'

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That is dated April 7, 1937.

Q. I would like those letters, please. A. Yes.

(Marked Grand Jury Exhibits 46 and 47 this date.)

Q. Then the only interest you have been paid is $200 in 1936, is that right? A. I think so.

Q. And $600 interest what year? A. I received $800 I think it was this last year.

Q. Was that interest paid by check? A. Yes.

Q. Was it deposited in your bank account? A. 6788
Yes.

Q. Do you remember what bank you deposited those interest payments in? A. I can't tell you what bank it is, but I will tell you what bank it is in the morning. If you will let me see the check book it will show it.

Q. You are sure those interest payments were by check? A. I am positive.

Q. Did you ever receive any cash from Mr. Stokley? A. No.

By Mr. Cahill: 6789

Q. May we have the date of the second payment, the last $800 last year, 1939 was the last year? A. Yes.

Q. The letter you read was in 1938? A. I read one letter, what year was that?

Q. You got the payment in 1939? A. Yes.

Q. What is your best recollection as to the month in 1939 you got the payment? A. In the summer or spring.

Q. Would that be in June or July? A. Either May, June, or July.

Q. What bank did you put that check in? A. I couldn't tell you what bank, but I can tell if I had——

6790 *Memorandum Made by Master Upon Examining Certain Documents, etc.*

By Mr. Willauer:

Q. You never at any time received any payments of cash from Mr. Stokley for any cause whatsoever, have you? A. No, sir.

Q. You have described in general this transaction with Mr. Stokley which the Judge spoke to you about, and I believe we got on to that transaction because I asked a question as to whether you have ever had any financial transactions of any nature with Judge Davis

6791 A. That is correct.

Q. And you answered no to that question? A. I never did have, because my affidavit shows that. I do not consider that a transaction with Judge Davis. That is why I said no."

On page 624 the witness testified as follows:

"Q. Have you made any loans to Judge Davis? A. Not that I can ever remember of.

Q. Of any nature? A. Not that I can recall, loans of any kind.

Q. Don't you remember whether or not you made any loans to Judge Davis? A. I don't think I ever

6792 did.

Q. Can't you say for certain whether you ever made any loans to him or not? A. I would say that I did not. If you asked me, I wouldn't say I did not.

Q. Are you in some doubt as to whether you made loans to him or not? A. No. To the best of my judgment now, I don't think I ever made any loans to Judge Davis.

Q. Would you not recall if you had made him a loan? A. I might have, but I can't recall of any loans I ever made to Judge Davis.

Q. If you had made any loans to him would the checks which you have turned over to us, to this Grand

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Jury pursuant to subpoena show such a transaction? A. It ought to, it ought to.

Q. So that if any such loan was made it would be reflected in your books, is that right? A. Absolutely.

Q. And if there is no such loan reflected in your books, your testimony is no such loan was made? A. No such loan was made.

Q. And you have no recollection of making such loan? A. And I have no recollection of making such loan." 6794

The witness also denied he ever had any stock transactions with Judge Davis, page 625. However, on the same page the witness testified that he got a statement from Ungerleider and Company claiming that he owed them $9,000 or $14,000, that the statement was marked, "J. Warren Davis in care of Morgan S. Kaufman, or Morgan S. Kaufman care of J. Warren Davis."

He said he called up the firm and said he never got the stock and never had anything to do with it, that he never did any business for Judge Davis, and that they told him it was a mistake and he would never hear anything more about it. 6795

He, however, received a further statement of the same character, and when he protested, they gave the same answer.

He also denied at page 628 that he had "the slightest idea" of how the account entitled J. Warren Davis, care of Morgan S. Kaufman happened to be opened in that name. The witness said he never spoke to Judge Davis about this at page 629.

The incident in question he thought took place in 1930 or 1931, page 630.

After certain questions regarding an effort to secure the release from the penitentiary of one Weiner, which he argued

6796 *Memorandum Made by Master Upon Examining Certain Documents, etc.*

in the Circuit Court of Appeals, the witness was asked and denied any recollection as to whether the loan to Stokley had been agreed to prior to the argument of that case. The witness further testified at this point as follows, page 651:

"Q. With respect to the other date, that is the date of your decision to loan $10,000 to Stokley that the Judge had requested you to do——. A. He hadn't requested me to do any such thing, please. I dont want to take issue with you, but I have told you exactly
6797 how this came about yesterday. The Judge had no more to do with it except to suggest it, not request it, suggest it, that if I had this money to loan, why, all well and good.

Q. If you had $10,000 to loan? A. No, I told you exactly what he said yesterday.

Q. Is this a statement of what happened, the Judge said to you if you had this money to loan he had a relative that could use the loan? A. No, not in that language or anything like that. He said in an incidental way, have you got any loose money, or things of that sort, that you want to make an investment on; and I said it depends on what kind of an investment,
6798 or something of that sort. He told me about this relative of his.

Q. And he said it was an investment, not a loan to a relative of his, did he not? A. Not an investment. He wanted to know if I would make a loan, if I was interested in making a loan of $10,000 on property that is worth $40,000, something like that.

Q. A loan to whom? A. A relative of his, I think he said a relative or a cousin, I won't say cousin.

Q. He wanted to know if you would make a loan to a relative of his in the sum of $10,000 on certain security, isn't that right? A. No, he said would you be interested, have you any money that you want to

invest, would you be interested in making a loan of $10,000. 'Would you be interested in making a loan?'

Then he described the property to me, that is in a general way. He said, 'I don't know enough about the particulars of it.'

Then, I said, do you expect him down here?

He said yes, he will be down.

I said when he does come, give me a ring.

I hadn't heard anything for six or seven——

Q. When did you decide you would be interested in making this loan? When did you finally decide to make the loan? A. After I sat down and talked to the man in the presence of Mr. Lord he told me what collateral he had. 6800

Q. When? I am not interested in what you did. When? A. On the date of the check.

Q. On November 14, 1935? A. Somewhere around there, that is correct.

Q. I don't want somewhere around there; is that the date? A. It can't be the date, it can't be that date.

Q. Here is the check, if that will refresh your recollection, or a photostatic copy of it. A. It must have been a day or two before this. 6801

Q. A day or two before the date the check was signed? A. It might have been the 13th or the 12th.

Q. Can you fix it any more closely than that? A. Not closer than a day or two.

Q. Was it a week before? A. No, I don't think so. I think it was the next day.

Q. Was it a month before? A. No, it was the next day.

Q. You are perfectly certain it wasn't as long as a month before? A. I am quite sure.

Q. Are you quite sure it wasn't as long as two weeks before that? A. My impression that it was

6802

either the next day or two days or three that passed. That would be the limit. I may be wrong about it, I am giving you my best impression.

Q. You mean you are giving me your best recollection? A. My best recollection, I may be wrong about it, I don't recall.

Q. That check is dated November 14, is it not? A. That's right.

Q. Judge Davis' first suggestion, as you choose to call it, to you respecting this loan to his relative was

6803

in the summer of this year? A. Of that year.

Q. 1935, is that correct? A. I think that is my best recollection when I made the statement. I thought it was the summer, it may have been a little earlier than the summer.

Q. And you were seriously considering making that, were you? A. I wasn't seriously considering anything. The fellow just told me, and nonchalantly I said when the fellow comes here let me talk to him, and paid no more attention to it.

Q. Did you tell the Judge at that time you would lend the money? A. I did not.

6804

Q. You did not tell him that? A. I did not tell him that.

Q. Did you tell him you had the money to loan if the loan looked good? A. I didn't tell him anything of the kind.

Q. You understand what I am trying to get at isn't a commitment on your part, but did you say to him you had the money and if the properties looked good, you would go into it? A. I might have said if things look as well as he said to me, I might be interested.

Q. You say you might have said that? A. Yes.

Q. Do you recall whether you said that or anything substantially like that? A. Substantially, I can't recall.

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Q. Did you say substantially that? A. I might have said that, I think I did. I can't give you the exact words.

Q. How long before that check was issued did you have your conference with Stokley? A. I just said I don't know whether it was a day before or two days before, or a week before, but my impression is that it was a day or two before.

Q. How long before that check was executed and your conference with Stokley had been arranged were you notified Stokley would be up? A. I said either 6806
that day or the next day, I am not sure as to the date.

Q. Did you know he was coming up in advance? A. No, I did not know anything about it, it was all news to me.

Q. You just said a moment ago you were convinced that it was a good loan at the time you signed that check. A. I was satisfied the loan was ample security—that the security was ample, rather, for this loan.

Q. May I ask who convinced you? A. Well, Mr. Stokley told me about this other property, that they were $30,000——

Q. I am not interested in what he told you. Who 6807
was the person who convinced you? A. Mr. Stokley in the first instance, and the Judge told me anything that man said you can rely on.

Q. So it was Mr. Stokley and the Judge? A. I wouldn't say the Judge. The Judge told me anything he said I can rely on.

Q. Would you say it was Mr. Stokley with the Judge's endorsement? A. No, I wouldn't go as far as it was his endorsement. I simply took his word for whatever he said. I think the security is ample today."

6808 *Memorandum Made by Master Upon Examining Certain Documents, etc.*

There are some further questions and answers with respect to this transaction, but they are only a repetition of what has already been quoted above. Further testimony, page 357, was as follows:

"Q. Now, for your information the record discloses that the Weiner case was argued before the Circuit Court of Appeals for the Third Circuit with Judge Davis sitting on November 8, 1935, six days prior to the execution of that case, is it not? A. That may be
6809 possible, yes.

Q. Did you at the time of that argument inform the representatives of the United States who were arguing the other side of the case that you had negotiations pending with a relative of Judge Davis, who was sitting on the case, looking towards your making a loan to that relative? A. No, I never knew about it.

Q. You never knew about it? A. I never knew about this loan on November 8th, that is, I hadn't done anything about this loan on November 8th.

Q. You hadn't done anything about this loan on November 8th, had you? A. Not that I can remember.

Q. The Judge had spoken to you about the loan,
6810 hadn't he? A. Away back in the summer he said something to me about a loan. I didn't say I was going through with it, or anything. He just said something to me, I passed it off and never said another word, never gave it a thought.

Q. So that on November 8th when you argued the Weiner case you did not know you were going to make a loan to Stokley? A. I did not.

Q. Are you quite sure of that, sir? A. If my recollection serves me right, the only time I saw Stokley was a day or two before this, and I never had any real talk with the Judge about this except once that I can recall of.

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Q. Perhaps we can help your recollection. Can you say if you had known you were going to make a loan to Stokley you would certainly have advised the other side? A. No. If I had made a loan to Mr. Stokley, it had nothing to do with the Judge. It was purely a matter between Mr. Stokley and myself. It meant nothing to the Judge.

Q. Even though the loan was made at his suggestion—I use your own word—of the Judge to a relative of the Judge's? With that amendment does your answer still stand? Please answer responsively. A. I 6812
couldn't answer that question. That question is subject to a lot of dynamite, as you well know. I couldn't as a lawyer answer that question.

Q. Do I understand you are availing yourself of the privilege, sir? A. No, I don't want to avail myself of any privilege.

Q. Is the question not clear in any respect? A. Yes. Will you let me have one second——

Q. At this time I want answers to the questions. If it isn't clear in some respect I will withdraw the question and reframe it. Listen to the question and see if you can answer this one. If at the time you 6813
argued the Weiner appeal before the Court which consisted of Judge Davis and others, you knew that you were going to make a loan at the suggestion of Judge Davis to a relative of Judge Davis, would you have apprised your opponent, the representative of the United States, of the fact? Can't you answer that question yes or no? A. I would like to answer that question with a qualification.

Q. I insist, sir, that you tell me first whether you are able to answer it yes or no. A. I don't like the word suggestion there of the Judge. If a man simply says do you want to make a loan, that is one thing,

but he didn't say that. He just nonchalantly asked me whether I was interested in making a loan, and if I thought for one moment that the Judge was interested in that loan it was my duty as a lawyer to notify the other side, I would say that. If I thought the Judge was interested in this loan, it was my duty to notify the other side, but I did not know, and I do not even know today that he had any interest in this matter whatsoever.

6815 I am not protecting the Judge in any way. Don't misunderstand me. I am just giving you the absolute facts.

The man owes me the money, there is no question about it, and I still say that he owes every nickel of it, and no one is interested in that $10,000."

After considerable prodding the witness said that if he had thought Judge Davis had an interest in the loan, it would have been his duty to notify his opponents, and also the duty of Judge Davis to notify his brethren on the bench. He, however, denied that Judge Davis had any interest in the loan. The examination is not particularly important.

6816 It related mainly to Kaufman's idea of ethics.

The witness denied any knowledge as to whether Judge Davis had any other financial transactions with Stokley. The examination was not particularly important, as quite obviously Kaufman's ethics were not in issue in the case.

The examiner returned to Stokley at various times, but Mr. Kaufman stuck to his story as outlined above, and I can find no material variation in it. There was, however, one other part of his testimony which may be of interest, page 695:

"Q. Did you think it entirely right for Stokley to pay his interest, or pay the interest due on other mortgages on other properties and not pay you your in-

terest? A. I didn't think at all. He wrote to me here that he had to pay other people's interest.

Q. I am referring to April, 1936. A. I don't know anything about April, 1936.

Q. You knew, though, you did not get your interest? A. I read about it recently, that's the first time I really knew he had some other mortgage on another piece of property, not on this piece of property.

Q. What other mortgage did he have that you have read about recently? A. Well, he had a mortgage 6818
on another piece of property mentioned some time, I can't think of the name of the town, for $4,000.

Q. Who was the holder of that mortgage? A. My impression was that Judge Davis was the holder of it. Now, I am not so sure; that is what I read in the newspaper. It was only a few months ago when this investigation started.

Q. You read in the newspaper, according to your best recollection now, that Judge Davis had a mortgage of $4,000 on another property of Stokley's, is that correct? A. Yes, sir.

Q. Did you read when that mortgage was placed 6819
on this property? A. No, I don't think it said anything about it."

The witness said he made no inquiries about this other mortgage. At page 698 the witness described an interview with Judge Davis in the Pennsylvania Station, New York, after the investigation had begun. The interview took place at Judge Davis' request. The conversation had no particular significance except in the fact that Judge Davis sent for Kaufman and complained about an investigation being made, when he said he had done nothing to be ashamed of.

The witness was further asked in reference to whether he made any investigation when he heard that Judge Davis had

borrowed money from Stokley and taken a mortgage on his property, but he said it was a different transaction and made no impression upon him.

He claimed he had no doubt he could recover his $10,000 any time he wanted to. He said, page 702:

> "A. The property is worth $40,000. I don't see where I took a chance in a thousand of losing a nickel."

The witness was also asked other questions somewhat
6821 along the line of examination previously referred to as to whether he did not think it his duty to advise the Judges of the facts regarding the Stokley loan. The examination was not particularly important.

The witness also said at various points in the examination that he had not made efforts to collect from Stokley the money due him.

At various points in his testimony, particularly at pages 722 et seq., Kaufman made it clear that he made the loan to Stokley based entirely on Stokley's statement and relying on Mr. Lord. He never made any further inquiries and really knew nothing about the property. He had never been informed whether a lien for state and county taxes which the
6822 title policy excepted had been paid off.

The witness admitted intimacy with Judge Davis but said he never paid any of his bills for entertainment, page 730.

Beginning at page 749, the witness was asked certain questions about the "Root case". He said he brought down all the correspondence he had, but that many of his papers had been thrown away. This destruction he said had taken place in 1936 (page 751). The witness had no records of what records he had destroyed. He further testified:

> "Q. You are testifying to us that you threw away records pertaining to the Root case? A. I don't say that, I am not sure.

Q. Wasn't the Root case going on in 1939? A. No.

Q. Was there no phase of the case still pending? A. Not that I know of."

The witness was directed, page 753, to bring all the records of cases which he had in Pennsylvania, and which he had thus far neglected to do.

At page 757 the witness described his office in New York as one main office and a small office for the stenographer. He had three filing cabinets, and only one employee. The secretary does all his personal work. 6824

He said he appeared as attorney of record in most cases in which he was connected, except "possibly one case I did not, I was not of record."

"Q What case? A. The Universal.

Q. The Root? A. Yes."

That was page 762.

Page 763:

"Q. With respect to the Root case, which office did you operate from in connection with that case? A. I didn't operate much in that case, I didn't have anything to do with the actual work, the actual trial. 6825

Q. I don't think you have answered my question. Which office did you work out from? A. I didn't work out of any except having conferences from different offices. I think Judge Haight came down to see me in Scranton once in that matter.

Q. Any papers served on you? A. Not in that case.

Q. The forwarding of papers, where would they be sent to? A. I didn't have any papers forwarded to me in that case.

Q. When you procured any cases from any of the people with whom you discussed it, where did you

take them? A. I took them to my office if they gave me any, but all I can recall in that case is the records.

Q. That blue record? A. I found another record there.

Mr. Willauer: By record you mean——

The Witness: The printed briefs.

Q. Is there any correspondence you brought with reference to that case? A. Yes.

6827 Q. Now, the papers outside of correspondence? A. That is all.

Q. Did you have any other case with the Universal Oil Company? A. Yes, I had the Crew Levick case.

Q. Did you have any other matters? A. No, sir.

Q. Are you still on the Crew Levick case? A. Yes.

Q. Is that still pending? A. Yes.

Q. What court is that in? A. U. S. District Court for the Eastern District of Pennsylvania, Philadelphia.

Q. Before what Judge? A. Judge Welsh heard

6828 the last argument in the case.

Q. Outside of these cases, the Root case and the Crew Levick case and the Universal Oil case, have you done any other work for Universal Oil? A. I don't think so.

Q. You have recently gone through your files subject to the request of the Grand Jury? A. Yes.

Q. And an examination of your files disclosed you have no other matters with them, right? A. As far as I remember.

Q. Were you general counsel for them? A. I am now in Pennsylvania.

Q. You have had no other matters in which you have given the men advice at all? A. Practically so.

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Q. You found no papers in your files? A. No.

Q. When was the first time you came in as general counsel for Universal Oil in Pennsylvania? A. Some time in the latter part of 1935.

* * * *

Q. Have you done any considerable work on any other case outside the Crew Levick Company and the Root case? A. No.

Q. Have you done any work which would warrant any payment to you of any fees? A. No. I 6830
wouldn't think so."

That is page 765.

"Q. Have you given them any advice, meaning the Universal Oil Company, with respect to the management of their corporate affairs? A. No."

This is page 766:

"Q. Who are their general counsel, do you know? A. I think Judge Haight, and Mr. Thomas, and possibly Mr. Behrens.

Q. Do you remember whether you have ever given them any advice with respect to corporate matters? 6831
A. When you say corporate matters, what do you mean?

Q. Meaning the general conduct of their corporate policy. A. I don't think so."

The witness also said, page 766, that he had handled no case out of his Scranton office from 1934 to the present time. He said he had produced all the records that he had in any of these cases. He also testified, at page 767:

"Q. And if any briefs would be drafted, they would also likewise be drafted in the New York office?

6832 *Memorandum Made by Master Upon Examining Certain Documents, etc.*

A. Yes, but most of the briefs that were drafted, for instance, if it was in Philadelphia it would be in the Associated Gas office, or if it was on the Universal it would be in the Universal office or over at Judge Haight's office and copies would come back to me, and I would re-draft them or send them back in such form as I thought would be necessary, or go over there and straighten the thing out."

He also testified at page 768, as follows:

6833 "Q. Do you have any office outside of the office in Scranton or the office in New York? A. I have my name on the door in Philadelphia.

Q. Whose office is that? A. David E. Kaufman.

Q. That is your brother? A. Yes.

Q. Do you have any files there at all? A. I don't think so."

The witness testified at page 769 that he and his brother were joint owners of all their property and affairs, and that his brother received half of all his legal fees.

The witness said at page 878 that he is on a regular retainer from the Pennsylvania Railroad for matters pending
6834 in Lackawanna County, but testified that he never represented them in court, and did practically nothing except "sometimes collections."

The witness was paid $25,000 for discussing with Wilson, then Mayor of Philadelphia, the question of securing a contract for the Pressed Steel Car Company for the manufacture of subway cars for the City of Philadelphia and procuring said contract for the company. This did not involve any litigation.

At page 821 the witness testified:

"Q. When was the last fee you received from the

Universal Oil Company? A. I think it was the latter part of December.

Q. What year? A. 1936.

Q. You have received no fees in 1937 or 1938? A. The records would show, I can't recall.

Q. If you have received any fee, it would be on those records? A. Absolutely.

Q. I thought you testified the other day you now are general counsel for the Universal Oil Company in Pennsylvania? A. I did.

6836

Q. Are you receiving any compensation for that? A. I haven't received a fee in 1938 or 1939 for the reasons that the case which we have here is in status quo awaiting a very important decision from Illinois, and we will not proceed with the case in Pennsylvania until we complete the case in Illinois."

At page 822:

"Q. Mr. Kaufman, I am referring at this time to this list of cases you sent us and also the cases that you had in your file. Now, I see the first case on this list is Universal Oil Products Company, Crew Levick Company. Who was your client in that case? A. Universal Oil Products. 6837

Q. Was that the first case you had with that client? A. Yes.

Q. Had you ever done any work previous to the Universal Oil Products, Crew Levick case before then? A. No, sir.

Q. How did you come to be hired by them? A. A man by the name of Belknap called me. He was general counsel for Universal Oil Products.

Q. When was this, about, sir? A. That was about, I think, in 1932, the spring of 1932.

6838 Q. Yes. A. And he called me on the phone, I was at Scranton, and he told me who he was, general counsel for the Universal Oil Products, and wanted to know where he could see me. I said I expect to be in Philadelphia tomorrow.

He said what time?

I said I will be there about two o'clock.

He said where can I see you in Philadelphia?

I said at the Bellevue-Stratford Hotel, and I drove down there and I saw Mr. Belknap at that time.

6839 Q. Did anyone ever introduce you to him? A. No.

Q. He just called you on the phone? A. He called me on the phone.

Q. Will you describe what took place at that time? A. Well, I met him there and he told me—of course, then he introduced himself to me again, that he was general counsel of the Universal Oil Company, told me what it was, and went into details concerning the original patent that they had and the successor of the famous Dubbs patent for cracking oil.

He told me they had a very important litigation in Wilmington, Delaware, at that time. He told me

6840 who the counsel were in the case, who their local counsel were, and he wanted to know whether I represented any other oil companies, and I said no. I said I represented some gas companies but don't represent any oil companies.

Well, he said now, we don't want you to represent any other oil company. He said that is understood.

I said absolutely.

And he went on, he talked a great deal about the merits of the case. He told me who the president of the company was.

Q. That was the case in—— A. In Wilmington, Delaware.

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Q. Do you know the name of that case so that we can identify it? A. The Universal Oil Products v. Root Refining Company, and he—we talked a great many things, I can't recall just everything that was said, but he then told me that he would get in touch with me from time to time, and then just before we finished our conversation he said, 'Now, with reference to a retainer, do you want a retainer now or would you rather wait until the case is over with?'

And I said well, that is purely up to you.

He said I think you will fare very much better if 6842
you wait until the matter is over.

Well, that is substantially all that took place, and he talked a great deal about the matter of the patent and he told me about how far the case had proceeded. They hadn't got through with the testimony, and they were having hearings, and so forth, I think he told me at the time.

Q. Would you continue? A. Well, after that I called him several times and he told me that they got through with the testimony in Wilmington, and then the latter part of the year I called him and he told me there was nothing new. 6843

I came back. I went to Florida in 1933, and I came back to take charge of the S. W. Strouse Company here. I picked up the paper one morning that he had or dropped dead, I forgot what it was, and I called up the Universal and got Mr. Halle on the phone and told him how sorry I was, and he seemed to know all about me, and I first introduced myself to him, and he said yes, I know all about you, and we talked quite a while, and he said he would be glad to see me sometime.

That was substantially the matter that I had with Mr. Belknap.

Q. Would you continue and tell us your relations with that particular company? A. After the decision came down from Judge Nields in Wilmington, Judge Haight, who was one of the counsel in the case, came over to Scranton to see me about the matter one day, and we talked about the matter, and Mr. Belknap told me whichever side would lose there would be an appeal taken, the case would go all the way up, that it was a case of grave importance and involved millions of dollars, and I went over then to see Judge Haight
6845 several times in Jersey, and later on I went over to the Universal Oil Company at their offices.

They were preparing their brief or paper book, as we call it. The other side had taken an appeal, and I spent the afternoon discussing different matters with them, and the case was argued either late that year or the early part of the following year, and later on the case was decided—it was decided in favor of the Universal Oil Company by the Third Circuit, and a petition for certiorari went up to the Supreme Court of the United States and they refused to grant a certiorari, and the case was won.

6846 Q. As you are going along I don't mean to interrupt you, but you are telling us the progress of the case, and what I am chiefly interested in is your connection with the case. A. I am telling you my connection with the case. That was substantially my connection in the case. He did tell me at the time—Mr. Belknap—that there would be some other work they had, some very important litigation in Pennsylvania, and that is about the whole sum and substance of it.

Q. What did you do in this particular case? A. Well, just as I have outlined here, I was retained to do anything they wanted me to do, and I was advised not to take any other case of any other oil

6847

company at the time, and outside of the conference, that conference that I had with the lawyers, that is about—I did not take part in the argument of any of the case, I did not take part in the trial.

Q. Did you prepare any of the papers, sir? A. Not to any extent except as they sent me over the rough copies, and the briefs, and so forth, and we had a general discussion over there that afternoon.

Q. Did you do any actual work upon the briefs? A. No, except in conferences, that is about all.

6848

Q. Would you continue now and tell us your relation to Universal Oil Products from that time on down to the time that affirmance came from the Third Circuit Court of Appeals? A. They affirmed the case and then the case went up to the Supreme Court of the United States.

Q. The affirmance was in favor of the Universal Oil Company, was it not? A. Yes.

Q. Davis wrote the opinion in that case? A. I don't think so.

Q. He sat on the Court? A. I was not there in court at the time. I got a copy of the opinion, it was sent to me, but I don't think—I am quite sure it was not Davis who wrote the opinion. That is my best recollection now. I think the record will show it.

6849

Q. All right. Will you continue, please? A. Well, with that case or with the other case?

Q. With that case. What is your relation with the Universal Oil Company with respect to that case? A. Well, after the case was affirmed——

Q. Did you have any other work to do with respect to the case? A. After that date?

Q. After the affirmance. A. No.

Q. Did you ever have any consultation with respect to the case after that time? A. No. After the case was affirmed I called up Judge Haight, and he was out of town. I think he was on a vacation, or in Europe, I don't know where he was. Then I called up Mr. Halle, who was the president of the company.

Q. How long after the affirmance of the case, sir? A. I think it must have been some time in September. I called him up when I got back there maybe a week later around the early fall, I would say September.

6851 Q. Did you follow the progress of that particular case? A. Oh, yes.

Q. You were interested in the outcome? A. Naturally.

Q. And subsequent proceedings in the case? A. Yes, and I called up Mr. Halle and asked him—I said to him I would like to come over and see him. He said come over. I came over there and we discussed the case. He seemed to be very happy as to the final outcome, and I said I came over here to talk about my fees.

Q. That was in your telephone conversation? A. No.

6852 Q. You just said you wanted to see him? A. I wanted to see him, and then after he asked me to come over, I did go over there to see him personally, and we discussed things first in a general way, and he said to me let's see, how long have you been retained?

I said I think I have been retained about 3½ years.

He said, well, what is your thought in the matter, or idea? I can't give you the exact words that were used, but the substance of it.

Well, I said, in view of the importance of the litigation and in view of the millions of dollars involved

here I thought that a fee of $10,000 a year would not be improper or unfair, or something of that kind.

He then told me there is a petition for certiorari in the Supreme Court of the United States.

I don't think they will get very far because there is no question involved that they would have the Supreme Court take a case of that kind.

Then he said so our lawyers advise us. He thought a while and then said of course, we have—I don't know whether he said at that time or at a subsequent time, we talked about other litigation in court, and 6854
then he suggested $25,000 for my fee.

Q. At that same conference? A. At that conference; provided, he said, everything is all right in the Supreme Court he would recommend it.

Q. Had you had any previous conference to this particular conference in September with respect to your fees? A. I don't think so.

Q. Had you any conference with Mr. Halle? A. I am talking about Mr. Halle now.

Q. Yes, but any other conference with Mr. Halle? A. I doubt very much that I did have any other conference, and I say a month or so later he sent for me 6855
when I came over, and he gave me a check for $25,000.

Q. Did you ever render him a bill? A. I don't really remember whether I did or not.

Q. By letter or in any other form? A. I haven't got a copy of it, if I did. I may have, but I haven't a copy of it in my files if I did render a bill for $25,000.

Q. And what took place in that conference with Mr. Halle the second time? A. He just handed me a check, and we talked a while, and he told me about other litigation. They had a very important litigation of the Crew Levick Company he wanted me to represent, I think it was a week or so after that time,

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I can't recall when it was, and later on I was over there numerous times.

Q. And in connection with the—— A. In connection with the Crew Levick Company case.

Q. When were you first approached with respect to the Crew Levick Company case? A. We talked about it on that day.

Q. With whom did you talk? A. I think it was either that day or the next time, I can't recall which. I talked with Mr. Halle, and I think I talked with
6857 Mr. Behrens, I am not so sure, but I believe I did, he was there at the time. Then I talked to Judge Haight about the case, and he agreed at one time there either at that time or subsequently that my fee was to be $10,000 a year to look after their matters in Pennsylvania.

Q. Was Judge Haight at this conference with Mr. Halle and Mr. Behrens, either of the conferences? A. When that $10,000 was talked about, do you mean?

Q. Yes. A. I don't know, I am not sure about that, I wouldn't say one way or the other. He may have been and he may not have been, I don't recall it.

6858 Q. When was the first time you did any active work with respect to the Universal Oil, Crew Levick case? A. That was some time in October or November. We started to question the jurisdiction of it to find out where we could sue. We understood we could sue in Wilkes-Barre or Scranton, and I wrote—I have a record here, if you give me the record I could go into details there. I can't recall. I am giving it to you from memory because I have papers right there in everything right there in the Crew Levick case.

Q. I would like to have your memory. A. I am afraid it would not be fair to you and to the Grand Jury if I gave my memory on dates.

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6859

Q. Before we go any further with this particular case, what type of experience did you have as a lawyer? A. What do you mean?

Q. Well, after you were admitted to the Bar, did you have any specialty? A. No. A lawyer in Scranton, he practices generally, he can't specialize in any one particular thing.

Q. Did you have any occasion to try patent cases? A. Yes, I represented I think the largest patent case in the history of America.

6860

Q. And that was? A. The Tri-Ergon. That involved five hundred million dollars.

Q. When was that case going on? A. I started that case in 1933, I think.

Q. Was that about the time that Mr. Belknap came to see you? You said 1932. A. No, I think Belknap retained me before that, maybe it was 1932, my records would show it. I am giving you my best recollection on dates. I can't carry these dates.

Q. With respect to your conference with Belknap, did you have any letter in writing between you and Mr. Belknap? A. I did not.

6861

Q. Outside of this Tri-Ergon case that you say was the biggest patent case—— A. I think one of the largest patent cases in America——

Q. Have you had any other experience in patent cases? A. No.

Q. So, your first case and only case outside of Universal Oil cases was the Tri-Ergon case, is that right? A. Yes.

Q. In what capacity were you hired in the Universal Oil vs. Root case? What did you add to the picture, in your estimation? A. That is very difficult. I was retained in that case to do whatever they wanted me to do.

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Q. What did you do? A. I have outlined to you what I have done in the matter. Outside of these matters I did not do anything.

Q. You had conferences, is that correct? A. That is correct.

Q. And you did not participate in the preparation of the briefs? A. Not in a way that you would call a real preparation because the preparation was not made at the Universal Oil Company. We just discussed the matter generally that day.

6863

Q. And sat in as advisory counsel? A. Yes, in a general way, not particularly because they had great expert lawyers there on those matters.

Q. Were they expert patent lawyers? A. I assume they were. Judge Haight is considered——

Q. Do you hold yourself out to be a patent attorney? A. No, sir.

Q. Have you ever held yourself out to be a patent attorney? A. I never specialized in it.

Q. About how many conferences did you have with the attorneys for the Root Company? A. I wouldn't say how many; perhaps a half a dozen, maybe less, maybe more. I didn't keep track of it.

6864

Q. Now, when Mr. Belknap came to you in 1932, did he say what your work was going to be? A. No, he did not. He said we want to retain you generally.

Q. Did he specify particularly that you were not to be hired by any other oil company? A. Yes.

Q. So, as far as what he told you to do, it was rather negative than positive? A. Well, I am telling you what the facts are. You can use your own——

Q. What court was it in at that time? A. It was down in Delaware.

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Q. And you were not involved in any way in the Delaware case, were you? A. No, sir.

Q. Did you participate in looking over the brief or the records or anything? A. No, sir.

Q. When is the first time you did any work on the case, the first date you had any conference? A. Well, after they sent me the opinion of Judge Nields in the Tri-Ergon case.

Q. Were you of counsel in this case? A. No, sir.

Q. That is the Root case, was your name on any of the briefs? A. No, sir. 6866

Q. You said that Mr. Belknap called you several times. What did he call you about? A. I called him, he did not call me only the once, and I called him when I was in New York.

Q. What were those conversations about? A. Generally, I asked him how he was getting along with his matters, and he told me. We spoke generally about the matters.

Q. During this time you were actively engaged in the Tri-Ergon, is that right? A. No, the Tri-Ergon case had not been tried yet.

Q. But were you actively engaged in the preparation of that case? A. I don't recall now, I don't remember the dates. If you give me the dates, I can tell you. This is a matter of 7 or 8 years ago. I can't recall. 6867

Q. Well, the Tri-Ergon case—where did that first start? A. I don't recall. You have the records there.

Q. Didn't it start in the Middle District of Pennsylvania before Judge Albert W. Johnson? A. What dates?

Q. In the June Term of 1932. A. Yes, it was June, 1932, that is correct, but when the case was actually tried I don't recall.

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Q. And the final decision of the Supreme Court reversing the decision of the Circuit Court of Appeals that was the second decision of the Supreme Court, it was on April 3, 1935. A. They decided in October, 1934, I think, in our favor, the Supreme Court of the United States.

Q. That is October 1, 1934? A. They decided the case in our favor. Then they asked for a rehearing.

Q. The only question I am interested in now is this was just about the time—I am trying to correlate the
6869 two cases—you were talking to Belknap just about the time you were actively engaged in this Tri-Ergon case, is that correct? The terms are contemporaneous, I am trying to get your recollection. A. I don't remember. Whatever the record shows. I had my conversation in 1932 with Mr. Belknap. I don't know what the dates of the Tri-Ergon cases were.

Q. You said Judge Haight came down to Scranton to see you? A. Yes.

Q. What did he come down to Scranton about? A. Well, he came down I think on—I forget, some matters, he discussed the matter with me.

6870 Q. Well, with respect to this particular case, here is the record in the Root case. Let's see if there is anything in there that will refresh your recollection. A. I wouldn't have any—what do you call it here—that is the only record I have in my office.

(Records handed to witness.)

Q. One is a certified copy of the opinion of Judge Nields in Delaware. A. Yes.

Q. And the other is a copy of the brief in the Circuit Court of Appeals for the Third Circuit. A. That is correct.

Q. Did you have any correspondence in that particular case between you and Judge Haight? A. No.

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Q. Did you have any correspondence between you and the Universal Oil Company? A. No.

Q. Was this the usual type of arrangement which you enter into between yourself and other attorneys? A. What do you mean by the usual type of arrangements?

Q. I mean no letters in writing and nothing to signify the fee at which you were hired. A. I don't think I ever had any arrangements with fees with lawyers in writing, very rarely, unless they put it out themselves. I always took a man's word for it. 6872

Q. Did you have any conference with Halle with respect to the fee after Belknap died? A. No.

Q. With the exception of what you have told us about? A. That is the only time I discussed it, I believe.

Q. Did you discuss with any other person in Universal or any of the Universal Oil attorneys your fee or the arrangement that had been entered into between you and Belknap before you talked with Halle? A. I don't think I did.

Q. Did you have any arrangement with Belknap with respect to your fee? A. No, except in a general way that he spoke about a retainer. He said if you want a retainer now—I said it doesn't make any difference. He said I think you will fare very much better if you will let the retainer go on until after the case is disposed of. 6873

Q. Did Belknap mention any fee to you? A. I don't recall that he did. He may have, but I doubt it. I can't recall. I can't recall whether he did or not.

Q. Did you ever tell Mr. Halle that Belknap mentioned a fee to you? A. I don't think I did.

Q. The $10,000 a year, is that your own idea about the value of your services? A. My impression that it

6874 is now, whether I got it from him I can't recall. I felt in view of the litigation it was worth $10,000 a year as a retainer.

Q. What was the fee you got in this case? $25,000? A. Yes.

Q. Did you give any paper in writing to Mr. Halle when you received the fee? A. I don't really remember. He gave me a check, and whether I signed a receipt or not I wouldn't swear to. I may or I may not have.

6875 Q. What was your understanding about that particular fee of $25,000? What was it to cover? A. It was to cover the services in connection with that matter and whatever they were, as a retainer. I had been under retainer for 3½ years.

Q. And that was in connection with that particular case? A. I think so.

Q. Well, was it? A. I think so, yes.

Q. For any other case? A. I don't believe there was any other case at that time.

Q. Was there any other case under discussion at the time you got the $25,000 fee? A. I believe there was.

6876 Q. Did you ever mention the figure of $35,000 to Mr. Halle? A. Yes.

Q. On what basis did you figure it out? A. Well, $10,000, 3½ years, $35,000.

Q. And when was the first time you found out that Mr. Halle was going to reduce that to $25,000? A. My impression is he told me that day that if the Circuit Court, or Supreme Court of the United States would not grant a certiorari he would recommend $25,000. He didn't say that I was going to get it, but that he was going to recommend that I get $25,000.

Q. What proceedings were there, if you recall, after the first opinion in favor of the Universal Oil

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was filed by the Third Circuit on the appeal? A. There was a petition on the other side for a certiorari to the Supreme Court of the United States.

Q. I believe I asked you and you said you were interested in the subsequent proceedings. A. Well, I meant I was interested generally. Naturally I was interested generally.

Q. Did you have anything to do with the petition for a rehearing? A. No.

Q. Did you know that there was a petition for a rehearing until I just mentioned it? A. Yes, I think I saw that in the record of the proceedings. 6878

Q. Do you know the result of that? A. I think the rehearing was refused.

Q. And what other subsequent proceedings do you recall in this case outside of the denial of the petition for certiorari to the Supreme Court of the United States? A. That is about the only proceeding I know of.

Q. You were at no other conference, you say, with respect to this case, is that right? A. Oh, yes, I have had some conferences.

Q. I asked you whether or not you did any other work. A. I did not do any other work, but I have had general discussions with Mr. Halle. 6879

Q. With respect to the Universal, Root case? A. Well, it was not directly on the Root case.

Q. I am now talking about the Root case and the Root case, alone. A. Not directly about the Root case, no.

Q. Then you have had no talks about the Root case since that time, is that correct? A. Well, I don't know what you mean when you say I had no more talks. We talked about the Root case a great deal off and on, you see, and then I started in the Crew Levick

6880 case. I brought that to law and equity in Philadelphia against the Crew Levick Company, and we discussed that case, and generally we discussed the Universal Oil Company case.

Q. You mean the Universal Oil vs. Root case? A. Yes.

Q. Was that case finished yet at the time after the denial of the petition for certiorari? A. That case was finished.

6881 Q. Then what did you discuss about the case? I mean it was something that was passed. A. That was passed, yes, so far as that particular case is concerned, and the decision, that was concluded. There was nothing further to be done in that case.

Q. That is as far as you know? A. Well, I know it as a fact, there was nothing further done in that case.

Q. Was there any particular reason for your getting out of the case at any particular time? A. No, I don't see any reason.

Q. I mean after the Supreme Court decision had come down, if there was any subsequent proceeding

6882 in the case, would you have been advised so that you could confer with them? A. I think so.

Q. Were you advised of any subsequent proceedings? A. I don't recall whether I was or not as to that.

Q. I think you said a minute ago that you did not know whether there was any other proceeding. A. I don't know whether there was any particular proceeding. I may have asked if there is a rehearing in the Supreme Court, I can't recall now.

Q. But you never conferred about it with anybody after the Third Circuit of Appeals' opinion was

 6883

handed down? A. I may have talked with him about it, but generally.

Q. Did you talk to them about a present proceeding before a court at the time you talked about something that happened in the past? A. What is that?

Q. At the time you had conference after the opinion was rendered by the Third Circuit Court of Appeals did you talk with the attorneys or with Mr. Hafle anything about a present proceeding in the Root case, or about a past proceeding? I am trying to find out what you know about this Root case. A. 6884
I am telling you exactly what I know. I don't recall anything further. There might have been a petition for a rehearing.

Q. But you did not confer on it? A. No.

Q. Did you have any particular reason for asking for the check from the Universal Oil Company when you did? A. No, I did not ask for the check, I just came over to discuss my fees.

Q. Do you know what you did with the check? A. Yes, I deposited it in the bank.

Q. How much money did you have at that time in your different banks, do you know offhand? A. I 6885
must have had $50,000 or $60,000.

Q. You said you had money in safe deposit boxes? A. I used to have.

Q. About how much did you keep in your safe deposit boxes during this period? A. That was an accumulation of years, and then I took it all out some time, I think when the market broke they asked for——

Q. When was this? A. I don't recall, I think it was 1937, 1935 or 1937 the market broke and they wanted a very substantial margin, and I realized that cash was not bringing me in anything and decided in-

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stead of keeping it on hand to pay them off, and I paid it out.

Q. How long an accumulation? From what period? A. For years, ever since I started in the practice of law, practically.

Q. The first time you realized the money was not bringing you in anything was 1937? A. Oh, no, I realized the day I put money in it was not bringing me anything.

6887 Q. About how much of this did you have there in 1937 when you took it out? A. Around $60,000.

Q. In what safe deposit box did you have this money? A. I am sure it was ultimately in the Chemical Safe Deposit Company in the City of New York. My record will show the entire transaction."

The witness then said that he used the cash to pay off certain accounts at a stock broker's office, and proceeded at page 843 as follows:

"Q. The Crew Levick case, when was the first time you were approached with respect to the case? I believe that was the time you said you came over to discuss, or some time after you came over to discuss your

6888 fee in the Root case. A. I can't say exactly what date that was, whether it was before or after, but if I could have my files I could tell you about when we started this thing.

Q. Before giving you the file would there be some papers in the file that would indicate about the time you started the case? A. Must have been before December 11th.

Q. 1935? A. Yes, because Judge Haight writes me to the effect that I think you have been advised that the Universal Oil Products Company propose to bring an infringement suit against Crew Levick

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Corporation of Pennsylvania, a wholly-owned subsidiary of Cities Service."

The witness then said that he conferred on the Crew Levick case, and was asked certain questions as to what he had done. His testimony was rather vague as to what his services consisted of. He was unable to produce any correspondence. He said that he assisted in determining the policy of the case. He then testified at 846:

"Q. Are you attorney for the Universal Oil Company now in Pennsylvania? A. I am in this case (Crew Levick case). 6890

Q. In any other case? A. No.

Q. Are you general counsel for them? A. I don't know whether you call it general counsel; I am counsel for them.

Q. Does the retainer include work on any other case? A. Whatever work they need they can call on me.

Q. That is the understanding? A. It is.

Q. Do you have any letters setting forth that understanding? A. I don't think so unless there are letters in there. 6891

Q. You are attorney of record in this particular case? A. I am.

Q. How much have you received with respect to this particular case so far? A. You mean with reference to Crew Levick?

Q. Yes. A. I received a retainer for the year 1936 of $10,000, and I received a retainer for 1937 of $10,000.

Q. Didn't you receive an additional fee of $5,000? A. Yes, that was $5,000 I received in March, I think, or April, whatever my books show."

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The witness produced a few letters concerning rather unimportant things in connection with this case, such as getting extensions of time, and so forth. The witness said he had no other matters for Universal except these two, page 849.

The witness again said on page 850 that he was advised not to take any other oil cases except the Root case. He said he shared the fee in the Root case with his brother, and it would be shown on their income tax returns, page 850.

6893 At pages 863 and 864 the witness denied with much emphasis that he ever discussed the Stokley loan with Judge Davis in any way whatever.

The witness was taken over certain of the details of the Stokley loan again, but nothing new developed, although he was in Florida he said he did not make any inquiries about the loan or his security.

On page 855 the witness testified:

"Q. You were not called upon to do any work in the Root case? A. I wouldn't say that. Whatever work was necessary I did. When they called upon me to do anything, I did it.

6894 Q. What did they call upon you to do? A. I outlined it yesterday.

Q. Please tell me again exactly what they called upon you to do in the Root case. A. In the first place, they did not want me to take any other case of any other oil company.

Q. They did not want you to take any other case of any other oil company, and that is what stands out in your mind? A. No, it doesn't stand out in my mind. You have asked me for certain particulars, and I am trying to give them to you, the best I know how.

Q. That is number one; go ahead. A. Well, I had conference with Judge Haight numerous times.

6895

Q. Anyone else? A. I had conference with the president of the company.

Q. Numerous times with the president of the company? A. No.

Q. Who is he? Mr. Halle? A. Mr. Halle.

Q. How many conferences did you have with Mr. Halle? A. Well, on the legal conference he had one whole afternoon over there.

Q. Who was present at that time? A. I think Judge Haight, Mr. Halle, and Mr. Behrens; I think Mr. Thomas was there. I forget who else was, there may be someone else.

6896

Q. Any other attorney with whom you had a conference aside of the ones you mentioned with Mr. Haight? A. There may have been at the time, I can't recall just at this time.

Q. Well, it was a pretty important case to the Universal Oil Company. A. Very important.

Q. And you got $25,000 for your participation in it, didn't you? A. Yes, sir.

Q. And can you give us any idea of what you did or what you added to the picture? A. I don't think I added anything except that I was retained generally. The case involved many millions of dollars, and I was retained 3½ years, and I thought I was entitled to it.

6897

Q. And principally for staying out of the case on anyone else's side? A. Well, I suggested my fee, and they paid it, that is all.

Q. Why was it Mr. Belknap came to you? A. You will have to ask Mr. Belknap.

Q. What did he say to you when he came to you the first time? A. Well, he said this to me——

Q. You know Mr. Belknap is dead? A. I told you that yesterday.

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Q. Well, how can I ask Mr. Belknap? A. Well, I say I don't know. You asked me why he came to me. I did not ask him why he came to me. I did not solicit this case, I can assure you. I never solicit a case.

Q. Nobody says you have. A. Well, you are suggesting what did he say.

Q. You are protesting very much. A. I am not protesting. You are suggesting that I solicited the case. I never asked this man why he came to me.

6899 Q. Will you kindly answer the question? A. What is the question?

Q. What did Mr. Belknap say to you about his reason for coming to you in this case? A. He did not give me any particular reason why he came to see me. He told me that he had, they had a very important case in the District Court, Delaware District, before Judge Nields.

Q. And had the case been decided yet? A. No, the case had just begun. I think they were about ready to take evidence or had taken evidence, I can't recall.

Q. To what do you attribute Mr. Belknap coming to you in this case? A. I haven't the slightest idea.

6900 Q. Would you feel that you were specially qualified to handle this particular type of case? A. I couldn't say that. I will leave that to the judgment of other people when they come to me, or other lawyers.

Q. Was there anything that you did in this particular case that some other attorney could not have done? A. I don't believe there was.

Q. Was there anything that you did in this particular case that some attorney didn't have to do? A. I told you what I did, and most any lawyer would have done what I did in this case.

Memorandum Made by Master Upon Examining Certain Documents, etc. 6901

Q. The only papers you have in your file in this case are a record of the opinion of Judge Nields, isn't that right? A. Whatever I brought here.

Q. That is all you brought, wasn't it? A. I think so.

Q. Did you ever have any other papers in this case? A. I suppose I had some papers, but they did not amount to anything except records which I filed which you can see in the clerk's office.

Q. In the Crew Levick case you have got a lot of correspondence, haven't you? A. Yes, sir. 6902

Q. Papers sent back and forth between you and the attorneys? A. That is correct.

Q. You have no such correspondence in the Universal Oil case, have you? A. No.

Q. Did you ever have such correspondence in the Universal Oil case? A. No

Q. Had you at this time in 1932 had any patent cases? I think you said yesterday you had none. A. Whatever the date was, I don't recall whether I was interested in the Tri-Ergon case or not.

Q. From any other source either from Mr. Belknap or from Mr. Halle, or from any of the attorneys in the case, did you ever find out why it was that Mr. Belknap came to you specifically and asked you not to lend your services to any other oil company? A. I don't know. 6903

Q. Because you usually have with respect to cases? A. No, I never had such a request before.

Q. You felt that in that particular case your services were worth $10,000 a year, is that right? A. I felt that the amount of money that was involved and the size of the litigation with the millions that were involved in that case, that $10,000 a year for being retained in the case was nothing unusual. There are

a lot of lawyers that get $10,000 and $50,000 a year. I know a lawyer that got a million dollars for three months work; a client of mine paid it, one million dollars. I will give you the name and the facts about it if you like."

Page 889:

"Q. Did it ever occur to you why it was that they wanted you in this case? A. It never occurred to me and I never asked any questions.

6905 Q. Did you ever discuss this case with Judge Davis? A. Never. He never knew I was in this case, so far as I know.

Q. And to what do you attribute the cutting down of your request of $35,000 to $25,000? To the lack of value of your services, or just horse trading? A. No, he just made the suggestion at $25,000, that is all there was to it."

EXTRACTS FROM TESTIMONY OF J. WARREN DAVIS BEFORE THE GRAND JURY, NEW YORK, IN THE CASE OF THE UNITED STATES VS. JOHN DOE, APRIL 23, 1940.

6906 The witness testified that total fees he had received since he was on the Bench from outside sources, namely, executor's fees would be about $7,000 or $8,000, page 5.

He had bank accounts in Broad Street National Bank of Trenton, N. J.; Trenton Trust Company, Trenton, N. J.; Salem National Bank & Trust Company; Savings Account, Philadelphia Savings Fund Society; small balance in Swedesboro Trust Company, that was probably closed out, page 6.

At page 26 the witness said he had a safe deposit box in the Broad Street National Bank, and Mrs. Davis had one in the Philadelphia Savings Fund Society. He also said he had a box which he kept under lock and key in his office in which he kept some cash.

Memorandum Made by Master Upon Examining Certain Documents, etc. 6907

Regarding the Stokley loan, Judge Davis testified at pages 121, et seq.

"Q. Now, Judge, let me ask you with respect to the—I want to ask you a question or two with respect to the $4,000 loan which you made to Stokley. A. Yes.

Q. Now, you borrowed that $4,000 from Samuel Ungerleider, is that correct? A. Yes, that is right.

Q. And that occurred in the early part of 1936, Judge? A. Yes, just the date I don't recall, but 6908
somewheres in the early part.

Q. Early part of 1936? A. Yes, sir.

Q. And that was a few months after Morgan Kaufman had loaned Stokley $10,000, is that correct? A. Well, whatever time the records set forth.

Q. Well, now, do you recall, Judge, that Morgan Kaufman's loan was made in the end of 1935? A. I think you said yesterday that it was made either the latter part of October or the first part of November.

Q. Of 1935? A. There would have been two months in that year if it was November, and the other months in the next year, whatever time I made that loan. 6909

Q. Now, Judge, I want to ask you here the same question I asked you in our conference the other day, and that is what was the reason for the difference between these two transactions, that is, why was it that in the Kaufman, Stokley transaction you brought—you put Stokley in touch with a prospective lender? A. Yes.

Q. Whereas in the Ungerleider to you to Stokley transaction you imposed yourself between Stokley, the ultimate recipient of the money, and Ungerleider, the ultimate lender? What is the reason for the difference between these two transactions? A. There

is no particular reason I can give you other than this, I doubted that Mr. Kaufman would put any more money down there in the Stokley property. I did not know anybody else that I felt like going to and asking to put money in the Stokley property. I thought it was perfectly safe to do that, and still think so, and I wanted to help Mr. Stokley to save his properties, and it has always, Mr. Correa, from my earliest time of life until now been to help people when I can. I have frequently gone into my chambers in these troublous times having read my mail until one o'clock, people coming in to get me to help them, to see if I could get them employment, to devise some way, and that has been the philosophy of my life for the whole period of my life.

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I suppose because I was born on the farm and was a poor boy, came up to school and worked my way through that I have doubly sympathized with young men and young women who are struggling for an education and do not have the means to do it. I can name at least a dozen boys that I have helped and brought up to college, and now they are college graduates, and some of them doing well, and perhaps three or four times that many I have secured scholarships around, and that has been my philosophy, and that is why I helped Stokley and the reason why I have many.

6912

I thought Mr. Ungerleider would lend me the money, as he did, but I doubted that he would lend it to Stokley.

Q. Don't you think if you had asked Samuel Ungerleider to loan money to Stokley, he would have? A. I think he would have loaned it to me much more quickly and much more willingly than he would have to Stokley.

Memorandum Made by Master Upon Examining Certain Documents, etc. 6913

Q. As a matter of fact, between you and Stokley who was the better credit risk? A. Well, I do not know. We were both a credit risk, if I did it the way it was done, otherwise Stokley, alone, would have been a credit risk.

Q. Stokley had no obligation to Ungerleider? A. No, he had no obligation, but he had an obligation to me, and I had an obligation to Sam Ungerleider, and if Stokley did not pay, I would have to, and so there was kind of a double-barreled arrangement there.

Q. Were you able to pay at this time? A. No, I 6914
was not.

Q. Did Sam Ungerleider know that? A. I think Sam Ungerleider knew our circumstances.

Q. You were over-extended at your banks at this time, were you not? A. Yes, I was.

Q. And in a substantial amount? A. Yes, that's right.

Q. And Sam Ungerleider knew this? A. I think Sam Ungerleider knew that in a general way. I doubt that he knew it in a detailed way until the following year. In doing what I did for Stokley I did not then think and do not now think that I was breaking any 6915
custom."

And then at page 125:

"Q. Did Stokley give you security? A. Yes.

Q. What security? A. He conveyed the land to me.

Q. Did he give you additional—— A. And about that land you want those two letters.

Q. That is correct. A. Did he give me security?

Q. Yes. A. Yes.

Q. What, Judge? A. He gave me a ring that he said he paid $3,500 for, which Mrs. Davis now has in the safe deposit box.

6916 *Grand Jury Testimony of Charles Lee Stokley*

Q. He advanced the $4,000 to Stokley, or, rather, to his creditors, is that correct? A. Yes."

After some further details about the rate of interest on the loan, Judge Davis testified as follows:

"Q. Stokley made payments on that loan? A. Yes, that is correct. That is what I wanted to correct in my statement yesterday. I told you that I thought yesterday that no one had paid me any money in 1936, in 1937, in 1938, and that is the vice of testifying from memory about something that you have been
6917 asked about.

Now Stokley paid me in 1936, I think it was $400, that was on the note; in 1937, $1,500 or $1,600; and in 1938, $400."

He denied that he knew whether Stokley was paying anything to Kaufman. Judge Davis' account of the circumstances under which the Kaufman loan was made substantially agrees with the testimony of Kaufman. See page 128.

When Stokley made payments to Davis, he did not turn them over to Ungerleider, saying he was in trouble and needed the money, page 132.

Judge Davis' testimony is concerned almost altogether
6918 with his financial transactions and various matters but without any mention of the Universal Oil Company case. I have given about all that has any materiality regarding the Stokley loan.

Testimony of Charles Lee Stokley Before Grand Jury in New York on February 19, 1940, Obtained by the Master from the Office of the United States Attorney

CHARLES LEE STOKLEY, called as a witness, having first been duly sworn, testified as follows:

By Mr. Willauer:

Q. Mr. Stokley, it is our invariable practice with all witnesses before the grand jury to advise them of their Consti-

tutional rights, and those rights are that you as a witness before this grand jury are privileged not to answer any question which you feel might tend to incriminate you; furthermore, anything that you say here may be used against you. Now do you understand your Constitutional rights in that connection? A. I suppose I do, sir. If there is any technical point there I would thank you to explain to me what would be anything that would be my rights that I do not know about.

Q. You have had the usual warning and I think you understand that if you feel that if there is anything that 6920
you are asked that might show that you were guilty of a crime you can say to me, "I do not want to answer that question because I am afraid it might incriminate me." Now you understand the situation now, do you? A. Yes, sir.

Q. Where do you live, Mr. Stokley? A. At Mt. Dora, Fla.

Q. And how long have you lived there? A. Since 18th of November, 1896.

Q. And you are an orange grower there, are you not? A. Yes, sir.

Q. And you own property in the town of Mt. Dora, do you? A. Yes, sir.

Q. And you own other property in Florida? A. Yes. 6921

Q. Where is that located? A. Orlando; some lots in Orlando.

Q. How many lots in Orlando? A. Twelve.

Q. What type of lots? A. They are vacant property; it's city lots.

Q. Any others besides those lots in Orlando? A. No, sir.

Q. You don't own any other orange groves? A. Yes, in Orange County I have a grove.

Q. What do you call that grove? A. Well, it's Orange County grove, as it is the only one I have in that county, we call that working the property.

Q. Is that the grove with the church situated on it? A. Yes, sir.

Q. Is that the grove sometimes referred to as The Negro Church Grove? A. Yes, sir.

Q. As to your property in Mt. Dora, will you describe the general nature of that property and the extent of it? A. Well, I'd say my home grove, and the property adjoining it, which would be about 17 acres, that would be my home grove. I acquired parts of it as the years go by, some dozen years quite possibly—more than that, 20 years.

6923 Q. In addition to that don't you own some buildings which are used for tenant houses for Negroes? A. Yes, sir, I have possibly 30 tenant darky houses and a cement building that keep some stores, a barber shop and restaurant I think; that about consists of it.

Q. What is your relationship to Judge J. Warren Davis? A. He's a cousin of mine.

Q. A first cousin, isn't he? A. My mother and he were first cousins; he's second cousin to me.

Q. He's your second cousin? A. That's right.

Q. I thought your mother and his mother were sisters? A. Yes, sir.

Q. Which is it? A. No, my mother's mother and the
6924 judge's mother—my mother was first cousin to the judge's mother.

Q. How old are you? A. I was born the first day of the year in '78, New Year's Day.

Q. When did you first meet Judge Davis? A. That would be hard to say.

Q. Approximately. A. From a boy, from childhood I have known Judge Davis.

Q. Did you grow up together? A. No, sir, it was just I went to Florida in 1896 and possibly a dozen times during the time I'd come to New York to contract some fruit and I have stopped by and seen Judge Davis.

Q. About when did you get to know Judge Davis well? A. I should say I have known him about the same personal acquaintance as years have gone by; I wouldn't know just how to answer that, sir.

Q. Did you get to know him after you went to Florida or before you went to Florida? A. After I went to Florida would be about the way to express that, sir.

Q. Was it one year or five years or ten years after you went to Florida? A. Let's see if I can explain that intelligently. After getting on my feet down there, getting me an orange grove that I had worked up with my own hands and set up, I came to Florida, possibly five or eight years after 6926
wards.

Q. About when is this you are talking about? A. That would be—will you help me to count the years?

Q. Was it before the war? A. Yes.

Q. Was it before 1914? A. Yes, it was.

Q. Go ahead. A. At that time I stopped to see him on my trip to New York, spent the night with him, and then that was all the visiting for possibly three more years and then I spent the night with him.

Q. Again up here, up north? A. Yes, sir.

Q. Continue with the description of your relationship with Judge Davis? Strike that question. When was the 6927
first time that Judge Davis ever loaned you any money or ever gave you any money? A. Well, this was—I received a loan from Judge Davis in '36 I believe, in the Spring of '36 would it be? Please, sir, now I am trying from memory to be as accurate as I can, but it would be about '36 I am quite sure, sir.

Q. When did you first receive any money from any member of Judge Davis's family? A. Well, this was from Judge Davis himself I have learned since then. I thought it was a loan from his wife's funds, but Judge Davis loaned me the

money himself. My son said he was quite sure I could explain it that way, it was from the Judge.

Q. Which son of yours told you you could explain it that way? A. The son that I have at home.

Q. What's his name? A. He's been with me two years.

Q. What's his name? A. W. C. Stokley.

Q. When did he tell you that you could explain it that way? A. When we were talking the evening I was leaving home as to dates and these papers that I have here.

Q. You brought these papers in response to the subpoena, didn't you? A. Yes, sir, I did.

6929 Q. Which paper here is it that led you to believe you could explain it that way? A. I should think it would be the Orange County tax receipt because I borrowed the money to pay off the Orange taxes with S. A. Girard & Company from Judge Davis. I have such limited education, I think that is the paper of S. A. Girard Company, and now if I can find the tax receipt to that property.

Q. The payment of taxes that you refer to, is that payment that you made in March of 1936 of about $3600, isn't it? A. Not quite so much as that, but I think I have the amount there.

Q. You borrowed that money to pay those taxes from Judge Davis? A. No, sir.

6930 Q. You just said you did? A. This was the property, he loaned me the money to pay off from this, the claim that you have there, the S. A. Girard Company I settled about $8,000 for $4,000 to get them the cash.

Q. You did pay $3600 approximately on taxes in March of 1936, didn't you? A. Just about, yes, sir.

Q. And you recall that part of that was payment by check and part of it was payment by bond credit, is that right? A. No, sir; the bonds were bought with currency that I sold oranges to Georgia trucks and they paid me in currency, and I didn't have any banking account and I wanted the bonds to come through the bank so I had the——

Q. I want to get it clear because the jury may not quite understand this. In March of 1936 you paid off about $3600 of State and county taxes, that's right, isn't it? A. Near that; somewheres about.

Q. And part of your payment was made by giving to the tax collector some bonds of the county, is that right? A. Yes; I was trying to explain that.

Q. Wait a minute. Now the first thing we want to know is how you got those bonds? A. I secured the bonds from St. Petersburg and they were our Lake County School bonds and I paid for them with the money I sold the oranges for and got C. C. Conklin of Eustis of S. A. Girard Company to 6932
pay for the bonds through the First State Bank of Eustis, I gave him the currency and he just paid for the bonds and I saved myself the one day, the government allowed this if we could get in the money by a certain time that we could pay school bonds and buy them for 69 cents about, gentlemen, and get 100 cents on the dollar.

Q. Where did you get this currency from that you gave to Mr. Conklin in exchange for his check to pay for these bonds? A. Mr. Conklin tells me that he held the currency I gave him and put it in a bank box in Eustis and told the government man also that he did not want to mix it up with his account. I was sure that he had a check that I could 6933
bring with me that he had paid for the bonds but it was my money that was turned in, I had saved it and got enough to pay for those bonds.

Q. About how much did you use to pay for those bonds? A. I think it was 2460-odd dollars, 62 or 63, and paid off about $3300 worth of taxes possibly, I can't be exactly correct on that.

Q. You are quite sure what you did was give the currency to Mr. Conklin? A. C. C. Conklin of Eustis.

Q. And Mr. Conklin then got you a check? A. I understood he got a check but he told the government man and

myself when we went to him to verify it that he kept my currency and when the bonds came in he turned it over and paid for the bonds and then delivered them so I could hurry to the county clerk and pay my taxes with them.

Q. Mr. Conklin never did get a check? A. No, sir, and didn't give a check I don't believe for the bonds.

Q. About the time you paid these taxes you had a checking account in the Sanford Atlantic National Bank, didn't you? A. Mighty little, yes, possibly.

Q. This is 1936? A. Yes, sir.

6935 Q. You say it was mighty little? A. Mighty little, yes, sir.

By Mr. Gahagan:

Q. Do you know what bank Mr. Conklin got the bonds from? A. That was Eustis, Lake County, and Seminole County is where Mr. Willauer is looking up.

Q. Did you have any property outside of Orlando, the 12 lots in Orlando, the Orange County grove and the Mt. Dora property, those three pieces you talk of? A. No, sir.

Q. That's all the property you own in Florida? A. That's my holdings, I am quite sure.

By Mr. Willauer:

6936 Q. Now, Mr. Stokley, the records show that on February 24th you deposited $2987.60 in the bank—— A. First National Bank at Sanford.

Q. And that you withdrew on February 24, 1936 $2500. A. Yes.

Q. You tell me what that $2987.67, deposit was? A. I will tell you what the profit was?

Q. Where did you get that $2987.60? A. Sanford, gentlemen, is where we have our State market and I bought cabbage and celery and lettuce and peas and stuff and shipped trucks to Norfolk, Va., and I kept a checking account there so I could use that. Some was my money and some was

money we were speculating together buying stuff and shipping it to Norfolk.

Q. You and who else were speculating together? A. For instance the fellow driving the truck had an interest in it.

Q. You withdrew this $2500 from that bank a very short time before those bonds were turned over to the clerk of the court. Now what did you use that $2500 for? A. It's possible that part of that money could have been what had been paid me for fruit that I had saved up.

Q. What did you take $2500 out of your bank account for, that's my question? A. I stand corrected. I fully believed, gentlemen, that that was the money I used for school 6938
bonds. I had almost forgotten after he refreshed my memory on that but I do not recall but what possibly that was used for that.

Q. How about this story you just told us that you had gotten from Mr. Conklin a check. A. No.

Q. Which is it? A. I had taken the money to Mr. Conklin to pay for the school bonds.

Q. You just told us——. A. I had received some of this money from fruit sold Georgia trucks where we'd sell in bulk; they would pay so much and have it in bulk.

Q. You realize you are under oath here now? We want to get this absolutely straight. You first told me that the 6939
way you paid for those bonds was that you took currency and you gave it to Mr. Conklin; the next thing you said to me was that Mr. Conklin got you a check to pay for those, and then you changed it and said that Mr. Conklin kept that money in a safe deposit box. Now I have told you about the fact that your own bank account shows that you drew $2500 out of it and you now say that was probably the money that you used to pay for the bonds. Now which is your story? A. Part of it, I paid for vegetables, and if I drew $2500 out at that time I paid for my load of stuff and may have put the remainder on my school bonds. I couldn't truthfully

say as to just where my currency came from only from the earnings of my orange groves to pay for the bonds.

Q. Let's look at this deposit of $2987.60 in your bank account at the First Atlantic Bank of Sanford. A. Yes.

Q. Where did you get that $2987.60 from? A. Gentlemen, that was the money that I deposited as I would sell my fruit. I grew some vegetables but most of it I bought to put a half load of oranges and a half load of vegetables at Sanford; there was a State market there.

Q. That was an accumulation of currency? A. Yes, sir, of payments to me.

6941 Q. Was it currency? A. Most of it; most of those fellows paid $150 to three and four hundred dollars for a load of fruit by the bushel.

Q. That's cash money? A. That's cash money; they would bring cash from Atlanta when they would come down to buy their fruit.

Q. You are quite clear about that, that that was $2900 odd was cash money? A. Yes.

Q. Would it surprise you if I would tell you that the records of the bank show it was a check, that $2900? A. Was a check that was put in at one time?

Q. Would that surprise you? A. Yes, sir, it certainly

6942 would.

Q. Where did you get that check from, come on, now, tell us. A. The check would show if I got a check of that amount.

Q. You deny you got any such check, do you? A. No, I do not; I don't recall. Could it be possible that I had taken my currency and bought a check from a bank and put it over there? I can't recall.

By Mr. Correa:

Q. If I may interrupt, we want to know from you, Mr. Witness, what the fact was. We don't want speculation as to what could be possible.

By Mr. Willauer:

Q. Better think it over now and see if you can remember just how that was done. Have you any further thoughts on it? A. No, sir, I can't remember.

Q. At least you now do not want us to understand and believe that this $2987 was an accumulation of currency that you got from the sale of your fruit and that you deposited the currency in that bank, you don't want us to believe that now, do you? A. If I can think where this check came from that was deposited in the Seminole Bank, Atlantic Bank, I can then follow up in my memory as to how I saved up that 6944
much to put it in one check to deposit in that bank.

By Jurors:

Q. Wouldn't you know if you had $2900 lying around in your safe or box or some place in cash? A. No; I worked a little bit of money too fast; it didn't lie around.

Q. How much profit gross did the Mt. Dora throw off a year? A. Some number of years ago when the fruit brought a good price.

Q. Right at the present time? A. At the present time it would be very low because we have had this serious frost, it's practically all frosted. 6945

Q. What has it thrown off? A. We have had it pay ten thousand.

Mr. Correa: Let's take it as of the year we are talking about here, 1936. A. 1936 I would say the earnings of the gross that year must have been seven or eight thousand dollars.

Juror: Gross? A. Gross, fertilizer and spray and all came out of that, dusting and pruning.

Juror: What does that net, profit? A. Probably three thousand dollars.

By Mr. Willauer:

Q. This year what did you live on then? A. We grew enough vegetables to make the expense of our home and keep the darkies agoing.

Q. You netted in the season of 1935 to 1936, that's your season, runs both years, doesn't it? A. Yes, sir.

Q. You netted about $3,000 and you now tell us that of that $3,000 you took $2900 and used it, a large part of it, to pay off your taxes, is that right? A. Yes, sir.

Q. What did you live on all the rest of the year? A. Let
6947 me explain, I had some vegetables into that, I grew English peas and beans and cauliflower and stuff and that all helps out in feeding of my mules and so on.

Juror: How much does that help out? A. Possibly 7,800 dollars by real careful maneuvering.

By Mr. Gahagan:

Q. Is that part of the $3,000 or in addition to the $3,000? A. That's in addition to that. This is about what the fruit nets.

Q. What is the total gross, I think the gentleman wants
6948 to know, from the property, is there anything else in addition to that $800, let's get a figure down for '35 and '36, what is your total gross? A. There would be a net profit of $500 possibly on Negro shanties we call them, that's the darky houses that we rent for a dollar a week.

Q. Anything else? A. That's about the profit.

Juror: Do you keep books in running your orange grove? Do you keep a set of books? A. No, sir.

Juror: How do you figure your income tax? A. We haven't had enough to pay them, clear the profit with a big family I have, I have six children.

By Mr. Willauer:

Q. As a matter of fact your bank account shows that you deposited about $3,000 in addition to this $2800 during the year 1936; how do you explain that? A. In one year does my record show that I had more than $3,000? Please, may I ask you that?

Q. Yes, it does, and I am asking you to explain it. Who gave you that $2900? A. I got the $2900 from the sale of my stuff on the place.

Q. Were you ever repaid that $2900 from any other source than the stuff you got on the place? A. You mean 6950
did I make the money any other way except off the place?

Q. That's right, that's the first question. A. No, I had to get it all out of the soil, I am quite sure. Along somewheres we sold a truck to a man named Art Frazier.

Q. What kind of a truck was it? A. A GMC T-19 Fruhof Trailer.

Q. What year model was it? A. It was a—couldn't it be a '36 T-19 model?

Q. I am asking you. A. I won't say what model.

Q. Whereabouts does Mr. Frazier live? A. Ocala, Fla.

Q. How much did he pay you for that truck? A. $1100 when he finished paying for it; he still owes.

Q. How much did he pay down, as a down payment, on 6951
that truck? A. $400.

Q. What was the next payment he made? A. $100.

Q. And how long after the $400 did he make the next payment? A. Each month; he kept it up pretty well each month.

Q. When did you make this sale? A. I made the sale in the fall of '36.

Q. Where did you buy those bonds? A. St. Petersburg.

Q. What was the name of the company you bought them from, if it was a company? A. I can't say but I am quite

sure it was a Northern fellow that bought the bonds and advertised them for sale.

Q. Did he have an office? A. Yes, in St. Petersburg.

Q. Where was his office in St. Petersburg? A. I couldn't tell you; I have never been to St. Petersburg but once.

Q. How did you arrange to buy these bonds? A. Let me tell you, gentlemen, how I found out about those bonds.

Q. That wasn't my question. How did you arrange to buy those bonds from this man in St. Petersburg? A. I gave the money to Carl Conklin to pay for them, to arrange to buy them.

6953 Q. No. A. Can I tell you then I heard there were bonds for sale for about 69 cents on the dollar and by purchasing those bonds I could pay 100 cents a dollar on taxes.

Q. We understand all that. Now we want to locate this individual or company that you bought these bonds from. Did you write him, did you telephone him or did you go to see him or what did you do to go buy them? A. I had Tom Cooley to arrange to get some bonds and he couldn't get them until after the date that the State had granted us a certain date if we paid them by that date we'd pay them 100 cents on the dollar of the school bonds and Tom couldn't get them and it seems someone told me and I wired this company

6954 to send them to C. C. Conklin and the money would be there to pay for them.

Q. You sent this wire from Mt. Dora, did you? A. I couldn't say where I send that from, Tavares, the county seat, or Mt. Dora.

Q. And what did that wire say? A. I wanted to buy those bonds and I understood they had them for sale.

Q. Didn't you say you wanted them sent to Mr. Conklin who would pay for those bonds? A. That's the way it was handled.

Q. Now you are telling us Mr. Conklin paid for those bonds? A. With my money.

Q. I thought a little while ago you said that $2500 check was used to pay for those bonds. Which is it, it can't be both? A. I had taken the currency to Mr. Conklin to pay for the bonds.

By Mr. Correa:

Q. May I ask, who told you? You said someone told you these bonds could be purchased. A. Just as any farmer hears the neighbors back in the county talking and I learned of those bonds and sent and got them.

Q. You said someone told you. Can you tell us who did? 6956
You just said someone—I'd like to know who that was? You apparently had someone very definitely in mind. I will ask the stenographer to read back the answer if you do not recall. A. I can't say who told me this exact party that the bonds could be bought from.

Q. Who told you that the bonds could be bought? A. Our county clerk, Mr. George Dykes.

Q. Your county clerk? A. Yes, sir; he tipped me off that that would be a good way for me to save on my taxes.

By Mr. Willaxer:

Q. Who told you whom to send the telegram to, to pur- 6957
chase those bonds? A. I can't answer that.

Q. You are sure you sent the telegram to St. Petersburg? A. I fully believe that I did.

Q. Now in addition to this bond credit you also made a payment of $142.45 in cash and a check of $669.92, do you recall that? A. I do not. Whom was that paid to?

Q. You don't recall that check? A. Was that given on taxes?

Q. That's right, given to Mr. Harnidge; you remember him over there in the clerk's office at Tavares? A. Since you brought that to memory it seems to me I had a balance due me and I sold Mr. Harnidge that much to help pay on

his house lot in the town of Tavares, a balance on the bonds, if you don't understand what I mean. There was enough to pay mine and left a balance over. I think the records will show that.

Q. So you say this $669.92 check was Mr. Harnidge's check, do you? A. No, sir; I don't know; I don't say that was his check. That was mine, wasn't, on taxes?

Q. I am asking you whose check it was; you know, don't you? A. I don't recall whether it was on the Seminole Bank whether I drew the funds from there.

6959 Q. Will you give us a list of all your banks that you had in 1936? You had an account at the Tavares Bank? A. Yes, sir, that's the county seat of my county, Tavares.

Q. Where else did you have an account? A. Seminole Bank at Sanford.

Q. By the Seminole Bank do you mean the same as the Atlantic? A. Atlantic National Bank, yes, sir.

Q. Why did you say Seminole? A. That's in Seminole County and I live in Lake County.

Q. Have you a bank account in some bank called the Seminole Bank? A. No, sir.

Q. Is there any such bank? A. No; there's Seminole County; I was trying to make the county—explain to him

6960 I live in Lake County, have some property in Orange County and do quite a little business in the market over in Sanford which is Seminole County, and the name of the bank is Atlantic National I believe.

Q. As a matter of fact the records show, Mr. Stokley, that this $669.92 check was drawn on the Atlantic Bank at Sanford, but it wasn't drawn from your account. Now whose account was it drawn from? A. And it was given to me?

Q. And you gave it to Mr. Harnidge to apply on your taxes, didn't you? A. Well, gentlemen, it could have been a cashier's check that I had taken from one county to another but I can't say.

Q. It wasn't a cashier's check; it was drawn on somebody else's account. Now whose account was it? A. I just don't know.

Q. You realize you are under oath here now?

Juror: Have you another account in that bank under any other caption? A. No, sir; what little was there was in my name as far as that's concerned.

Q. Who gave you that $669? A. I don't recall; I can't remember.

Q. It was Judge Davis, wasn't it? A. I have no recollection of getting that small amount from him. The only 6962
check I ever got from him was the four thousand to pay S. A. Girard & Company.

(Stenographer relieved.)

Q. All told you got $2987.60 which you deposited in your account and then got this mysterious check of $669 and you can't recall where either of those two came from, can you? A. I explained it came from my—from the earnings of my fruit and vegetables.

Juror: How could you get a check when it was an accumulation of a series of cash transactions?

The Witness: Somebody must have made out a check in total for a lot of transactions in cash. 6963

Juror: I don't understand the origin of that check.

The Witness: He says I drew a check to that amount so it could have been put in in currency and drawn to that amount.

Q. $2987.60 was put in by a check, that was a deposit in your account. A. (No answer.)

Juror: I thought your average sales ran around $150 each.

The Witness: Yes.

Juror: Here you have one transaction of $2900. Wouldn't that be something rather exceptional that would stand out in your mind?

The Witness: I have sold some—don't put this down yet—as the years have gone, I have sold some fruit dealers as much as $3600 worth of fruit off a grove, he would take that block. Whether this was the payment for some fruit I sold packing houses I can't say. I don't know whether this was an accumulation and I got a check and deposited it——

6965

Q. What packing houses did you deal with in 1936? A. I believe my records will show C. A. Marsh & Co. of Orlando. I once sold them $3200 or $3300 worth.

Juror: What was your average balance, monthly balance in that bank?

The Witness: I think the records show I only had something there about a year. I haven't any there now.

Juror: How much?

The Witness: At the most it couldn't have been over this one check I got for fruit that season.

6966

Juror: Prior to this check?

(No answer.)

Q. Maybe I can help that question. Let me read from—some of your deposits. March 9, 1935, $159.20. Then it goes along in March, $225, $60, $398, $183; you start in April $100, $155, $352, $125, $120. You then go into May $135, $60, $100. There isn't one deposit here much over $500 except for this check of $2900. Does that help you remember where that came from? A. This check drawn on the bank can take up this amount I deposited?

Q. You are testifying. I am asking you what it came from. A. (No answer.)

Juror: Have you any peak season in your business?

The Witness: Yes, we get a little more in the springtime.

Juror: What months?

The Witness: April and May.

Juror: That is usually the time you make your sales to these big packing concerns?

The Witness: Thereabouts. They may contract 6968
from you and then pay you for them later.

Juror: When were they contracted?

The Witness: Either March—February or March.

Juror: Do they ever pay you in advance?

The Witness: Yes. Oftentimes they advance money and you sign an agreement the fruit is theirs.

Juror: When do they do that?

The Witness: In March.

Juror: In March they give you a contract?

The Witness: Yes. They will in February if you need money.

Juror: Do you ever keep these contracts in your files? 6969

The Witness: No, sir. When they get the fruit, there—that is about all there is of it.

Juror: Would that help your memory as to where you might have got the $2900?

The Witness: I believe it was for fruit, gentlemen.

By Mr. Correa:

Q. What do you believe it was, a contract? A. Not a contract possibly but all of my fruit aggregated together that I sold.

Q. That you sold up to February? A. Yes. I sold some fruit all through the winter.

Q. I am trying to explore what you believe the $2900 payment to be. You say you think it was the fruit you sold prior to the date of the payment. A. That is the only way I can arrive at it.

Q. How often have you deposited a check in that large amount in your bank account, $2900? A. Possibly once each year. That is, if I sell it in a quantity like that off a grove, I would have deposited possibly one time during the season; if I sold it by giblets, it would be as he read off the deposits.

6971

Q. When was the last time you did that? Start now and go back and tell us the last time you had such a transaction that you can recall. We are sitting here in February. Have you had one this February? A. No, sir, the fruit is frozen this year and I had a heavy loss.

Q. How about last year? A. Last year I marketed a good deal in Norfolk. That would be the smaller——

Q. Did you get paid $3,000 or anywhere in that neighborhood for it? A. Not last year.

Q. When was the last time such a transaction took place? A. We did better with the fruit during 1934 and 1935 and 1936 so it could have been—1937 we didn't do so good. I

6972

didn't get that much either of those years.

Q. So that no transaction—and correct me if I am wrong—no transaction of this size took place since 1936, is that correct? A. I fully believe you are right. I think 1935 I got more than that, 1934.

Q. We are now addressing ourselves to the period from 1936 up to date, and with respect to that period no transaction of this size took place, is that correct? A. I don't recall getting that much about 1937 or 1938 and I know we won't this year.

Q. You can recall getting that much in 1935, you say? A. That year I think their records will show I sold them a bunch of $3600 worth.

Q. Whose records? A. C. A. Marsh & Co.

Q. Tell me, how is it you can recall the amount and the party involved and all about it, apparently, this 1935 transaction involving $3600, but you are unable to recall this 1936 transaction involving nearly $3,000. A. I fully believe it is my fruit.

Q. I am not interested in your belief. Can you tell us who purchased this fruit for $2900? A. I can't say.

Q. You can remember who did it in 1935. A. I won't— 6974
please pardon me, but I don't mean to make a statement that I sold it but I believe that I sold some in 1935 for $3600.

Q. To this Marsh company? A. Yes.

Q. How about 1936? Why does your recollection fall down for 1936? Is it because this does not represent a sale of fruit? A. No, it represents fruit or vegetables and it is possible I am just asleep on the job. It may be that was the check from Marsh also the next year as I sold those gentlemen two years.

Q. Is this money you got from somewhere else, this $2900? A. Only for fruit and vegetables. There can't be any part of the truck in it. 6975

By Mr. Willauer:

Q. Whom do you know that lives in Washington, D. C.? A. N. J. Ward & Co. has sold fruit for me in Washington.

Q. Where do they bank? A. I don't know. Mr. Lawrence I think you will find is the manager for them.

Q. That is called J. Ward & Co.? A. N. J. Ward & Co.

Q. Is that the same company as Ward Bros.? A. I believe it is.

Q. Did you ever hear of the Liberty Nat. Bank in Washington? A. No, sir.

Q. Did you ever get a check on them? A. I didn't look who the check was from. I have got many checks from N. J. Ward & Co.

Q. If your account shows some checks drawn on banks in Washington, D. C., they must be checks of Ward & Co., mustn't they, or N. J. Ward? Could it be anybody else besides them? A. We sold a man named Davis. I won't be sure what his initials was. He was from Winter Haven and had gone in business there.

Q. Is he in Washington, D. C.? A. Yes, next store down from Ward's.

6977

Q. Anybody else? A. Over in Richmond——

Q. I am talking about people who are in business in Washington and have bank accounts in Washington. A. I don't recall any other merchant.

By Mr. Correa:

Q. Is there anybody else from whom you have received any money who is in Washington? A. I don't remember anyone else.

Q. You are perfectly clear on that? A. I can't recall any; in fact, I don't recall any amounts from these gentlemen.

6978

By Mr. Willauer:

Q. Let me refresh your recollection. On Dec. 27, 1937 you made a deposit of $199.90, which represented a check drawn on the Liberty Nat. Bank in Washington. Have you any recollection whose check that was and what it was for? A. Any check that was given me from Washington must have been in pay for my fruit or vegetables.

Q. Very shortly thereafter there is a check of $299.90 from the same source. What do you say as to that check? A. I think you will find that is from the same company.

Q. As a matter of fact, Ward Bros. did not bank in that bank, that Liberty Bank, did they? A. I couldn't say.

By Mr. Correa:

Q. Don't those amounts mean anything to you? You notice both those last checks Mr. Willauer read to you were in peculiar amounts, ending in $99.90, if I recall correctly. Doesn't that mean anything to you, the fact that you banked those checks of that amount? A. I don't see why it could mean anything more than pay for my fruit.

6980

Q. I am not asking that. I am asking does it mean anything to you? A. Would you be kind enough to explain what you mean? It means my pay. Could it mean anything more to me than that?

Q. Does it? Does the amount give you any clue as to the identity of this check which you deposited or these two checks? (No answer.)

By Mr. Willauer:

Q. As a matter of fact, apparently those two checks were originally $200 and $300, and the ten cents is some collection charge or something. Does the amount of $200 from the Liberty Nat. Bank mean anything to you or the amount of $300 mean anything to you? A. It means pay for my fruit. I can't see any other——

6981

Q. How would your fruit payments come out even like that, $200 and $300? A. I can explain that. I got an advance of $200. It seems that that check must have been possibly in the early fall as we were starting picking and shipping to this company; fruit brought a very low price, I had fruit that was wasting, and I kept pouring it in there. There should be more checks running along, $150 or so.

By Mr. Gahagan:

Q. Does anybody run the property with you; any person know any more about your affairs than you do? A. My son graduated from Bucknell and came home two years ago and has been helping me on the farm.

Q. Who runs your books? Do you have any books? You have tenants. You sell different types of vegetables and sell fruit. Don't you keep any books at all? A. The slack way that we farmers keep books wouldn't be what you gentlemen would call——

6983 Q. Do you keep any books? A. No.

Q. Who keeps your check account, you or your son? A. I deposit in the bank of Tovares. At this time all I have, which is down to a pretty low ebb—I don't believe there is $100 in there.

By Mr. Willauer:

Q. On Oct. 1, 1936 you deposited $1,000 even in the Bank of Tovares, Florida, and that was a check on the First State Bank of Eustis. What was that check for? A. What date was that, please?

Q. Oct. 1, 1936. A. I borrowed $1,000 for a short time
6984 from Mr. Conklin and then taking the check to the Tovares Bank—I fully believe, being the County seat, to pay taxes from this amount.

Q. Is that $1,000 deposit money you borrowed from Mr. Conklin? A. I can't say what year that was but I remember such—it seems to me like the only time I have had a First State Bank check.

Q. Did you give Mr. Conklin a note? A. I gave him security on some fruit.

Q. How did you give him that security on the fruit? A. Just as one neighbor to another. He went and picked so much fruit to pay himself and gave me the market price and he is absolutely fair.

Q. Did you give him any sort of written paper to bind this deal up? A. You would be surprised but——

Q. I asked you did you or didn't you on this occasion? A. I don't remember giving him any paper, only my word and bond to go and get enough fruit.

By Mr. Correa:

Q. If I may interrupt, this applies generally throughout, if you will listen to the question and address yourself to answering the question asked of you, we will get along a lot faster.

6986

By Mr. Willauer:

Q. July 16, 1938 you deposited in the Bank of Tovares a check from Paul C. Stokley for $99.90, and two days after another check from Paul C. Stokley for $849.90. Will you explain what those checks were? A. I haul to Norfolk and store fruit in a storage plant, and my son, living in Norfolk, I would take the currency and buy a check from him and send it to the Bank of Tovares, and the Pender Co.—our check will show they paid me a check of $800 or $900. Their man went down—I assigned certain barrels of fruit over to him in the storage plant and I sent my son's check to the Bank of Tovares who received more checks possibly during the season that I bought from him, and there was ten cents charge each time on the check to my bank in Tovares.

6987

Q. You remember those things very clearly. A. Yes, since you brought it to memory.

Q. What is the matter with your memory on the other items? (No answer.)

Juror: You said you borrowed a short time. What time do you mean?

The Witness: If we pay our taxes in a limited time, we save quite a little and this man, being in the fruit business, I borrowed from him to pay the taxes.

Juror: How short a time?

The Witness: Possibly 60 days, until he could get the fruit.

Q. Now in response to the juror's question as to how short a time, you said this paper ran until he could get the fruit? A. I said possibly 60 days.

Q. To what paper did you refer? A. I didn't refer to any paper. I was telling you about getting the loan to pay the taxes.

Q. Perhaps I am mistaken but tell me what ran for 60
6989 days. A. The advance on the fruit. I am quite sure he made it within 60 days because the fruit was nearly ready in October.

Juror: Was that because there was some note or something of 60 days? Why the 60 days?

The Witness: They sometimes wait 90 days until the fruit is ripened. You sometimes get it within 30 days. I believe it was about two months before he would get pineapples and oranges.

By Mr. Willauer:

Q. In any event you say you borrowed this $1,000 to pay taxes and deposited that, as the records show, in the bank of
6990 Tovares, and then I suppose you drew a check on the Bank of Tovares to pay your taxes? A. Yes.

Q. Now, this tax payment right after this $1,000 was, the records show, made up this way: first there was a check for $856.87 and next there was cash of $300, totaling a little over $1,100, which was just about the amount of your taxes; do you recall that payment that you made part by check and part by cash in December of 1936? Do you remember that? A. No, sir.

Q. You don't remember anything about making that payment? A. Yes, I remember. It seems to me that check you

speak of was drawn to pay that amount of taxes and I have taxes over in Orlando and my Orange County Grove is near Mt. Dora and I paid the taxes in Orlando and it could have been I took that currency and paid the taxes over there.

Q. I am talking about a tax payment for your Lake County property, which payment you made in Tovares, Fla. to Mr. Harnidge. You made two payments, one a check of $856.87 and another in currency of $300, totaling $1,100. Do you recall that transaction in Tovares? A. That seems very natural that that is what it was. I couldn't swear to it.

6992

Q. And you drew that check of course, didn't you, from the bank where you deposited the $1,000? A. Yes, sir.

Q. You are sure of that? A. I don't think I had any source at that time but this is the transaction we are trying to get to.

Q. Would it surprise you to know there isn't any record of any check in any amount like $856 drawn on your Tovares account? A. No, it wouldn't surprise me.

Q. What did you get that check for, $856? A. You say there is a check shown——

Q. You used a check of $856.87 to pay taxes with and there isn't any such check drawn on your account in Tovares where you deposited the $1,000 you borrowed to pay for those taxes. How do you explain that situation? A. Does the record show it was on the Seminole Bank?

6993

Q. What is this Seminole Bank you keep referring to? A. I mean the Atlantic Bank in the next county.

Q. I am asking you about the situation. A. I don't know.

Q. Are you sure that wasn't somebody else's check, that $856? A. Is any shown given to me in Washington——

Q. Don't ask me questions. You answer the question. A. I would have thought it was that amount that I had in the Tovares Bank.

Q. In view of the fact that it appears you did not draw it from the Tovares Bank, would you like to change your story now about that $1,000 deposit? A. There is one year that I had a $1,000 deposit.

Q. And very shortly afterwards you did produce a check for $856 but it did not come from the bank you deposited that $1,000 in; how do you explain that? A. I can't explain it. What is the date of this transaction?

Q. This transaction, the $856, is Dec. 12, 1936. When you made the tax payment of about $3,600 which you described in the beginning of your testimony, that payment of
6995 bond credit and check, did you receive any word from anybody requiring you or urging you to make that payment? A. Had I got the loan from Judge Davis at that time?

Q. No, you had got the $10,000 from Morgan Kaufman at that time but you had not got the loan from Judge Davis of $4,000. Have you any recollection of receiving any word from anybody in connection with your payment of those taxes? A. That is urging me to be sure and take advantage of the date, the time limit?

Q. Any word of any kind? (No answer.)

By Mr. Gahagan:

6996 Q. Was there anybody you were getting constant advice from with respect to running your property, anybody except yourself and your son? A. No one that I recall. Who in the world could have given me any?

By Mr. Willauer:

Q. Let me see if this will refresh your recollection. This is a copy of a day letter Feb. 19, 1936, from J. Warren Davis to you. Do you recall now anything in connection with any body speaking to you about your taxes? A. I don't recall.

Q. I will read the telegram: "Had telegram from Mr. Conklin. Stop. Will be up Saturday in time for supper

and will stay over until Monday. Stop. Would like to see him Saturday if convenient to him. Stop. Don't forget to pay your taxes today on time." A. I recall that quite well.

Q. Signed "J. Warren Davis." The taxes you did pay on March 9, 1936 were on the property for which Morgan Kaufman loaned you $10,000, is that not right? A. I paid on all my taxes—I had enough to pay the part I had free and clear. I had some groves that were not on the mortgage.

Q. The bulk of the tax payments were on Morgan Kaufman's property? A. And S. A. Girard, the Judge, was lending me the money on——

6998

By Mr. Correa:

Q. Were the bulk of the payments on Morgan Kaufman's property? The question is still unanswered. A. I remember the message.

Q. Were the bulk of the payments on Morgan Kaufman's property? A. What about them?

By Mr. Gahagan:

Q. Can you hear? A. I can now.

Q. Maybe you haven't heard any of the questions that have been asked you recently. I am shouting only because I take it you can't hear me if I talk in a low tone of voice.

6999

By Mr. Correa:

Q. If you don't hear the questions at any time, speak up and save time.

Mr. Gahagan: Because otherwise we are wasting 24 gentlemen's time.

By Mr. Willauer:

Q. Mr. Stokley, on March 9, 1936, you paid approximately $3600 on account of taxes on various properties. Now, is it not a fact that most of the money that you paid

applied on taxes on Morgan Kaufman's property, and by Morgan Kafmaun's property I mean that property that was redeemed from the Town of Mt. Dora by the $10,000 Morgan Kaufman payment. Do you understand that? A. Yes, sir, I understand now. The taxes I paid was—about 50% of the money I paid was on Morgan Kaufman's holdings, which he helped me to redeem. The other was on property I had free and clear and under mortgage with S. A. Girard Co., which I brought the mortgage here——

Q. What was Judge Davis's interest in having the taxes paid on Morgan Kaufman's property? Why did he want
7001 those taxes paid? A. I can't say.

Q. He did want them paid though, didn't he? A. He urged all taxes, my taxes——

Q. Who is Frank Drake? A. A man that collects my darky rent in Mt. Dora.

Q. That telegram told you Judge Davis was coming up to see you about your property, didn't it? Did you hear the question? A. Yes.

Q. Will you answer it? A. I would naturally think that is what he meant, he was coming up to see me.

Q. What conversation about your property had you had with Judge Davis before he sent that telegram? Did you
7002 have any discussion with Judge Davis about your property before he sent that telegram? A. May I answer this way? He had visited me in my home, had gone fishing, and had seen my groves, and I had asked him if he knew anyone that would lend me money to pay the tax liens off.

Q. When was this? A. In 1935 I should say.

Q. What part of the year in 1935? A. In the spring of 1935.

Q. As a result of that conversation what developed? What was his answer? You asked him a question did he know of anybody that could lend you money to pay the taxes. A. Not to pay taxes but to pay off the paving lien. The Town had got a paving lien against my property because I

was behind with my paving, and they paved the street against our wishes.

Q. That is another transaction, that is the transaction that led up to the $10,000, isn't it? What I want to know is here you got a telegram from Judge Davis saying he wanted to have a conference with Conklin and reminding you to pay off all your taxes on time. A. Yes, sir.

Q. What conversation did you have with Judge Davis which led him to send that telegram? A. This was—what the S. A. Girard Co.——

Q. Answer the question. Did you have a conversation with Judge Davis? A. I did. 7004

Q. Where and when did that conversation take place? A. In the spring possibly of 1935.

Q. This telegram is in Feb. of 1936, and here after the spring of 1935, just before this telegram, what conversation or correspondence or communication of any kind did you have with Judge Davis which resulted in this telegram being sent? A. C. C. Conklin mentioned in the telegram——

Q. Mentioned in what telegram? Mentioned in this telegram. A. He is the man who is manager for S. A. Girard & Co., and he was to explain to Judge Davis it was a safe investment of $4,000 to loan me to clear up my indebtedness with the fruit company.

Q. Then you had some agreement with Judge Davis that he was going to clear up this indebtedness? A. I had asked him to. 7005

Q. When did you ask him to? A. Before he left to go north in the spring.

Q. Of 1935? A. I am quite sure it was 1936.

Q. This telegram was sent by Judge Davis from Miami, Fla. You had a conversation with him, you say, before he left to go up north. Now, I don't understand that. A. He stopped by going to Miami, if it was the time he drove through.

7006 *Grand Jury Testimony of Charles Lee Stokley*

Q. Was it the time he drove through? A. I can't say whether he was on the train or driving through.

Q. You understand what I want to know? I want to know what the occasion was for Judge Davis to send this telegram asking for an appointment with Conklin and reminding you to pay your taxes. What prompted him to do that, so far as you know? A. So far as I know, to make me the loan with the S. A. Girard Co. He wanted the taxes paid so that the abstract would be clear that Conklin would give him of the S. A. Girard Co.

7007 Q. How long before the telegram did you have a conversation with Judge Davis about his making a loan to clear up the S. A. Girard Co. matter? A. Some weeks before, I couldn't say just how many days.

Q. Where did that conversation take place? A. Possibly in my groves or in the home.

Q. It was in the Town of Mt. Dora? A. Yes.

Q. How did Judge Davis happen to be there to talk to you? A. The same as any tourist would come through——

Juror: Don't tell us that. You are a cousin of Judge Davis. He is not going to come through as a tourist to see you.

7008 The Witness: I want to answer it as intelligently as I can.

Juror: That is not intelligent, by calling him a tourist.

Mr. Correa: You are not unintelligent.

Q. How did Judge Davis happen to be in Mt. Dora? What brought him there at the time of the conversation just before this telegram of Feb. 19? A. Judge Davis stayed from 3 to 6 weeks at the Lakeside Hotel in Mt. Dora and I am quite sure it was this year——

Q. So he was not just going through town, he was there from 3 to 6 weeks. A. In the hotel.

Q. Now, you had a conversation with Judge Davis? A. Yes.

Q. And was that in the hotel? A. I had several conversations with him during his stay. I couldn't say whether or not this was in the grove or down in the hotel. I had dinner with him one time in the hotel.

Q. How did he happen to come to stay in the Lakeside Hotel? What was his purpose in being in town? A. Wm. Egerton of Philadelphia owns the Lakeside Hotel and was a good friend of Judge Davis. I don't know any other reason why he stopped there. There is other hotels, the Willard Dora and several others, Grand View—— 7010

By Mr. Correa:

Q. Why was he in town at all? What was the occasion of his visit to Florida at this time? A. There is no other way in the world I could explain it only he is there spending the winter.

Q. Did he tell you that? A. He was not there on business.

Q. My question was did tell you that? A. I don't recall that he specified that he was there on a vacation. I naturally presumed he was.

Q. Isn't that something which would come up in the normal course of the discussion between you, as to how he happened to be in Mt. Dora at that time of year? A. Please state the question again. 7011

Q. You have forgotten the question now? A. I haven't forgotten it.

Q. The question is didn't he in the normal course of the discussions between you tell you how he happened to be in Florida, and in that particular part of Florida, at that time of year? A. No, he did not.

Q. You assumed he was there on vacation? A. I truly did.

7012 *Grand Jury Testimony of Charles Lee Stokley.*

Q. Did he come there to make a business deal with you? A. No, he didn't come to make a business deal with me.

Q. Did he tell you he had not come to make a business deal with you? A. No.

Q. So far as you know, he might have come to make a business deal with you, is that correct? A. It would take a lot of persuading to get him to do that.

Q. Can't you answer the question? So far as you know, he might have come to Florida, to that part of Florida, to make a business deal with you? A. I don't believe so.

7013 Q. Had you asked him to come in order that you might approach him on this business deal? A. I don't recall asking him to come.

Q. Do you know whether you asked him or not? Is that question so difficult? A. I would have been glad for him to have come.

Q. Don't you recall whether you asked him to come for this particular purpose or not? A. I did not, not for this particular purpose.

Q. You now recall you did not ask him to come, is that your testimony? A. I don't recall asking him to come.

Q. Let me just ask you one further question? Are you trying to shield anybody? A. No, sir, by the help of God, I 7014 am not.

Q. You are not trying to conceal something here? A. No, sir.

Q. You are perfectly certain about that? A. I truly am.

Q. You don't want to leave the impression here that there is something about some of these maters which you are trying to cover up with us? A. No, sir. The only thing I have an apology to make is to the splendid gentlemen that I haven't any better record to give it more intelligently. I am ashamed of myself that way.

Mr. Willauer: I would like to have the witness instructed that he is still under subpoena and he is to return at quarter of two tomorrow.

Foreman: The witness is dismissed subject to recall.

(Witness excused.)

CHARLES LEE STOKLEY, recalled.

Foreman: Mr. Stokley, before we start this questioning I want to tell you the grand jury here, the majority, in fact I think everybody in the room, do 7016
not feel you are giving the questions the proper thought and intelligent answers you are able to. You are under oath to tell the truth, the whole truth and nothing but the truth, and you are talking before a federal grand jury and give us the answers quickly and all you know about the questions without thinking the whole thing over beforehand.

Mr. Correa: If I may add to that, Mr. Stokley, particularly try to make your answers responsive to the question; that is, if you are asked a question which is specific, do not answer with something else. Answer that question, do you understand that? A. Yes, 7017
sir.

Mr. Correa: Because we'll get on much faster. The time of these gentlemen is very valuable.

By Mr. Willauer:

Q. Mr. Stokley, you have had a night to think over these questions that I asked you yesterday and you will recall that one of the questions was, what was the source of the money for the $2900 check that you deposited in the bank, first, in the Atlantic National Bank at Sanford, Fla. Now since last night have you thought that thing over and can you

7018 *Grand Jury Testimony of Charles Lee Stokley*

give us any light on that subject? A. As best I know how, it was from the proceeds of my orange crop.

Q. Just where did you get that one check for $2900? A. Gentlemen, the amount of the fruit possibly brought that exact amount.

Q. Not possibly. Do you know where you got that check for 29-odd hundred dollars which you deposited in that bank account, do you know? A. Please, what date was that check?

Q. That check was deposited on February 24th, 1936, a few days before you paid your taxes. Now will you answer
7019 the question? A. It was from my orange crop I am sure, gentlemen.

Q. I don't mean what the source of the money was in that sense; I mean did you get that from a person or from a bank, and if so who was the person or what was the bank? A. I am under the belief——

Q. Wait a minute, do you know whether you got it from a person? A. I did not get it from one person; I got it——

Q. Did you get it from more than one person? A. I must have gotten it from an orange company.

Q. Now did you get it from an orange company? A. I believe I did.

7020 Q. Do you know whether or not you did? A. No, sir, I do not.

Q. But it is your best belief that you did? A. Yes.

Q. What do you mean by an orange company? A. I am under the belief that I got it from C. A. Marsh Fruit Packing Co., Orlando, Fla.

Q. And what did they give you that check for? A. For the oranges, at $1.65 per field box, is my strong belief, in the field.

Q. Now the next line of inquiry that we went into yesterday was the $2500 check which was drawn from your account on February 28, 1936; do you recall my asking you questions about that? A. Yes, sir.

Q. And by account I mean your account at that Atlantic Bank, you heard that, didn't you? A. Yes, sir.

Q. For what purpose was that $2500 check drawn? A. That's in the year 1936?

Q. Yes, and the date of the withdrawal was February 28, 1936? A. I don't know.

Q. You testified yesterday that you paid about $2500 for some bonds of Lake County and that those bonds were used to obtain credits on taxes; you did so testify, didn't you? A. Yes, sir.

Q. Where did you get that $2500 with which you purchased those bonds? A. I believe that the check that's in 7022
question was the one that I cashed and taken currency to my friend, Conklin.

Q. Now you say you believe. Do you know that you cashed a $2500 check at the Atlantic Bank and got currency and took it to Conklin, do you know that? A. I believe it's the best——

Q. I am asking you whether you know; now answer me yes or no, do you know? A. I don't know.

Q. What is your best belief? A. That I did.

Q. Why did you take currency to Mr. Conklin and not a check? A. Gentlemen, I had taken currency because when the bonds came in he would have no trouble with my check. 7023
It must have been all I had in the bank at that time.

Q. You have obtained certified checks before, have you not? You are familiar with certified checks, are you not? A. I can't say that I am.

Q. Your wife has obtained certified checks, you know that, don't you? A. No, sir; it must have been a small amount.

Q. You know the one I am referring to or don't you? A. I do not.

Q. Do you know what a certified check is? A. Yes, a check that's made out by a bank that guarantees it I should think.

7024 Q. Do you know? You say you think; do you know? A. That's the best I know, sir.

Q Have you ever in your life obtained a certified check anywheres? A. I am bound to have, sir, during my lifetime.

Q. Why didn't you obtain a certified check this time instead of taking $2500 in cash over to Mr. Conklin? A. Just as I explained to you, that the bank gave me the currency, if that's the $2500 that I believe, and then I turned it over to him and he bought the bonds with it.

Q. So the story you want us to believe is that you know that you took that $2500 check and you went to the Atlantic
7025 National Bank and you obtained currency and you took that currency and you handed it to Mr. Conklin, that's the story you want us to believe now, is it? A. That's what I am trying to believe myself.

Q. Wait a minute, is that what happened? A. I truly believe it is.

Q. Where was Mr. Conklin when you handed him this $2500? A. In his office at the Eustis Packing Company in the Town of Eustis.

Q. How did you get that $2500 in currency from Sanford to Eustis? A. By driving over there; I told you gentlemen I do business at the Sanford market——

7026 Q. By driving over, that answers my question. A. Yes, sir.

Q. How did you carry that, what did you carry that $2500 in currency in? A. Well, sir, I suppose I put it in my pocket.

Q. You suppose, don't you remember? A. I must have put it in my pockets, sir.

Q. Don't you remember whether you did or you did not? A. I want to answer you correctly, sir, and my whole belief is that I did.

Q. Was it in an envelope? A. I couldn't say that it was.

Q. You haven't any recollection of carrying that $2500 at all, have you? A. Yes, I have a recollection of carrying the currency to Carl Conklin that purchased my bonds, the school bonds.

Q. You have a recollection of carrying it from the bank in Sanford in an automobile over there to Mr. Conklin, that right? A. That's correct.

Q. You don't remember for sure whether it was in an envelope, whether it was in your pocket or in a valise, you don't remember how you did it? A. I must have taken it in my pocket.

Q. I am not asking you how you would have. I am asking you do you remember. A. I do not. 7028

Q. When you got there with the $2500 to hand over to Mr. Conklin what did you receive from him in exchange for that $2500? A. Mr. Conklin is a friend of mine and put it in his hands.

Q. I am asking you a question, did you put it in his hands? A. No, sir, no receipt for it even; he said he would pay for the bonds when they came and he says he paid for them in currency, that he kept my currency and paid for them.

Q. Where did he keep your currency? A. He says he put it in a lock box in the First State Bank for the three days the bonds were coming. 7029

Q. When did he say to you he did these things that he now says he did? A. After the Government man from Texas came over and interviewed he and myself.

Q. What Government man from Texas was this? A. I couldn't tell you, and he told me his name also.

Q. Was it C. B. Winstead? A. That sounds like it; he was working out from Miami, sir.

Q. When was this? A. I was subpoenaed on the 15th and it was just a few days before I left home, about on Tuesday before the 15th.

Q. Of what month? A. Of this month, of the month of Feb.

Q. When you say Government man, was he an FBI man? A. Why, he said he was working for the Government and investigating as to how I paid for those school bonds and I gave him every bit of help I could.

Q. And this man told you he was from Texas, did he? A. Formerly from Texas, yes, sir.

Q. Did you tell that man this same story about the currency that you are telling us now? A. I did the best I could to explain it the same way.

7031 Q. Did you tell that man about depositing a $2900 check? A. No, sir, I did not; I don't think that was brought up, sir.

Q. Where did you tell that man that you got that $2500 of currency? A. I don't believe I told him.

Q. Did he ask you? A. He asked, "How did you pay for the school bonds?", and I says, "I got Carl Conklin of Eustis to take the currency and pay for them."

Q. Did he ask you then where you got that currency? A. No, he did not.

Q. And you didn't tell him? A. It wasn't brought up, I don't believe.

7032 Q. Where did this interview take place? A. Down on my farm.

Q. In Mt. Dora? A. In Mt. Dora.

Q. Was Mr. Conklin present? A. No, he went right over to see Mr. Conklin.

Q. Who went right over to see Mr. Conklin? A. This Government man.

Q. How do you know what Mr. Conklin told the Government man? A. Well, the reason I know, before I was leaving I says, "Carl, give me the check to take with me since I am subpoenaed to New York, to show that you paid for those bonds." I thought he would have the return check.

7033

Q. What did Carl say then? A. Carl said, "I paid for it with the same currency you gave me. I put it in the lock box and when the bonds came I had taken them up, paid for it."

Juror: You say you sold those for $1.65? A. For a field box; that's a two bushel box. They pick them off the tree and pay so much a box.

Juror: You remember that but you do not remember some of the other things which are very much more important. A. I do not remember the amount of the check that was paid me for that.

7034

Q. Just one more question on that. You say that Mr. Conklin tells you that he took this $2500 in currency and put it in a box? A. Taken the amount, whatever it was, I believe it was somewhere close to $2500.

Q. My question is, Mr. Conklin told you whatever the amount was he, Conklin, put that in a safe deposit box, that's what Mr. Conklin told you, was it? A. Yes, and paid for that——

Q. Wait a minute, that's what he told you. Did you go with Mr. Conklin when Mr. Conklin put that currency in the box? A. No, sir; I handed it to him in his office and went home direct to my work.

7035

Juror: You got a receipt from him for the taxes? A. After the bonds had been turned in the taxes were paid with those bonds.

Juror: That was given to Mr. Conklin? A. Mr Conklin only turned me over the bonds to pay the county clerk with.

Juror: Was there some money left over from that currency, was it the exact amount of the bonds or didn't Mr. Conklin have some money left? A. No; what I gave him was about what the bonds would come to.

Juror: Exactly? A. Just exactly, I am quite sure.

By Mr. Gahagan:

Q. How did you know that? A. I had gotten the price on the bonds from the bonding company and put enough currency to cover them when they came.

Q. What bonding company? A. Gentlemen, it was in St. Petersburg and I haven't the exact name of the company.

Q. You went and saw him? A. No, I wired or wrote down for them or wired to them for these bonds.

Q. Further along that line, did he write a letter back to you? A. Gave me a price on them I think by wire.

7037 Q. By wire? A. Yes.

Q. Now did you sent the wire yourself? A. Yes, I inquired as to getting the bonds.

Q. I asked the question, did you send the wire yourself? A. I am quite sure I did.

Q. Where did you send the wire from? A. Mt. Dora to St. Petersburg.

Q. Was it from the Mt. Dora telegraph office? A. Either Mt. Dora, Eustis—they are five miles apart.

Q. Do you know which one? A. I can't say which.

Q. It's either Mt. Dora or Eustis? A. Yes, sir.

Q. And you sent the telegram? A. Yes.

Q. Did you write it out in longhand or give it over the
7038 phone? A. I remember the telegram in answer back from them.

Q. I am now asking whether or not you wrote the telegram out or gave the telegram over the phone, not about the telegram you got back? A. I can't say.

Q. You don't know, but you do know you sent the telegram? A. Yes, and I do know I received an answer.

Q. Did you pay for the telegram or was it charged to your phone number? A. I can't say that.

Q. You don't know whether you phoned? Now let's get this straight, you don't know whether you phoned or you

don't know whether you went to Mt. Dora or whether you went to Eustis? (No answer.)

Q. Do you know something more with respect to that telegram? I am now directing your attention only to the telegram you sent; so far it is very indefinite. Can you help us out something more so that we can trace that telegram? Have you a phone in your house? A. No, sir.

Q. You have no phone in your house? A. No phone.

Q. Is there a telegraph office in Mt. Dora? A. Western Union.

Q. Is there one also in Eustis? A. Yes.

Q. Postal Telegraph or Western Union? A. There is each in Eustis. 7040

Q. Do you know which one you go to? A. Western Union.

Q. You only send telegrams through Western Union? A. I won't say only but practically all the time I use Western Union.

Q. How long before the time you gave the money to Mr. Conklin did you wire for this information with respect to the bonds, about a period of time, I don't want an exact answer but a period, a week, a month, two months? A. Only two or three days.

Q. Two or three days from the time? A. Yes. 7041

Q. How long after you gave the money to Mr. Conklin did he buy the bonds? A. As soon as they could be delivered, it took a few days.

Q. In other words there should be a telegram in one of those telegraph offices from you to this man in St. Petersburg? A. Should be.

Q. Do you recall his name? A. I do not.

Q. Where did you get his name from? A. I had Lawyer Cooley——

Q. I understand; you said yesterday Lawyer Cooley couldn't get the bonds for you, is that correct? A. In time.

Q. I understand; I don't want that story again about not getting the bonds in time. I want to know from whom you got the name to send the telegram to a certain person now in St. Petersburg? A. Yes, I got the bonds from St. Petersburg, and what bonding company I couldn't tell you, gentlemen.

Q. I understand, but you sent a telegram to get those bonds, is that correct? A. That's my belief that I did.

Q. Now did you or didn't you? That's your belief? We'll take it as your belief. Now we'll go on a little bit from
7043 there. Had you ever known this man before you ever sent this telegram to him? A. No.

Q. Had anybody ever described the person to you? A. Yes, sir; I told the gentlemen yesterday——

Q. Never mind what you told yesterday. A. Mr. Dykes is the clerk of the court and he told me there were bonds for sale down there if I could get some of them.

Q. Did he tell you the name of the person? Now if he did; just come out with it. A. Possibly he did at the time, sir.

Q. But you don't know whether he did or not? A. Yes; he was bound to because I couldn't have gotten in touch
7044 with him if he hadn't.

Q. You were asked that question yesterday; couldn't you have said, "Mr. Dykes told me"? We are going to question Mr. Dykes, you understand that? A. Yes; Mr. Dykes will verify it.

Q. You understand every question and answer you give in this proceeding will be verified? A. Yes.

Q. Mr. Dykes told you; did he know this particular person? Did he know him personally? A. He knew of the bonding company, being the clerk of the county, that the bonds were issued on.

Q. Where did you get the impression it was from a man up North? A. That was Cooley trying to buy them and couldn't be delivered.

Q. You said yesterday you got the bonds from St. Petersburg from a man who had bought the bonds up North. A. I was wrong then. I didn't mean he bought the bonds up North. He bought the bonds in Florida and bought them from the profit that was in the sale.

Q. Was he a Northern man? A. The one Cooley was trying to buy them from.

Q. Did your information come from the North with respect to the buying of the particular bonds? A. I went in to see him to learn whether he had gotten the bonds for me. He said they hadn't come, it would be a few days. My time limit was running out and that's why I got in touch and bought some myself. 7046

Q. Then what did you do? Whom did you get in touch with? A. The bonding company that I was told by the clerk of the court.

Q. Did you go right down to see the clerk of the court then? A. I was in Tavares at the time asking about my taxes.

Q. The clerk of the court suggested this particular person? A. This particular company, bonding company. 7047

Q. And thereafter you made your arrangements with Mr. Conklin to pick up those bonds, is that correct? A. Yes, sir.

Q. The telegram that was sent back to you, what did that telegram say? A. I ordered the bonds and the best of my ability it says, "We will furnish the bonds at 69 cents", don't quote me on that as correct because I don't remember.

Q. Did you then wire him again and say, "I accept your offer"? A. I told him to send them to the First State Bank, care of C. C. Conklin.

Q. Did you write a letter or telegram or telephone, what did you do? A. I believe Mr. Conklin will verify me that he

phoned them to send them on, that he had the money to pay for them.

Q. Let's find out what you did right after you got the telegram. You received a telegram you say from this bonding company? A. Yes, whether or not they had them.

Q. Then what did you do then? A. I accepted them at the price they made me on them.

Q. How did you accept them? A. I think Mr. Conklin phoned them that he would take it.

Q. You weren't in constant communication with Mr. Conklin at this time, were you? A. I am only five miles from
7049 there and I had lots of business——

Q. I don't want that type of answer. I want to know whether or not you were in constant communication with Mr. Conklin during the time you negotiated for those particular bonds. You understood my question? A. Yes.

Q. (Question read to witness.) A. Yes.

Q. All the time? A. I won't say every minute but continually.

Q. He knew you got this particular information from Mr. Dykes, is that correct? Did you tell him that? A. I won't swear that I did.

Q. How many bonds did you get? A. I got those num-
7050 ber of dollars worth that it took to pay my taxes and had just a little over that; Mr. Harnidge bought the remainder.

Q. How many bonds did you buy? A. I can't say, nor can I say the exact penny they cost per-share.

Q. You said a few minutes ago that you had nothing left over and it came out even, is that correct? A. No, no, gentlemen.

Q. I believe you said a few minutes ago that it came out even and there was no money to be given back to you, in response to one of the questions asked by the grand jury. You gave Conklin the exact amount? A. I gave him the exact amount to buy the bonds and it was exactly what they

cost, then when they come to figure up my tax and I got a percentage off that I sold the remainder to Harnidge in Tavares.

By a Juror:

Q. Remainder of what? A. Of the bonds.

By Mr. Willauer:

Q. Mr. Stokley, did you ever hear of a bond company called Walking & McKee? A. That sounds something like that company they were bought from. 7052

Q. You think it may have been the company? A. Either that or Ed Webb; it seemed like we were working on one Ed Webb or Eddie Webb, and this sounds like the company that we bought from that you mentioned then.

By Mr. Gahagan:

Q. When you say "we" whom do you mean? A. Conklin.

Q. And you? A. Yes.

Q. Was your son involved in this? A. No, he wasn't with me then.

By Mr. Willauer: 7053

Q. Now when we concluded yesterday afternoon's session you finally told us that Judge Davis was in Mt. Dora staying at the Lakeview or Lakeside Inn? A. Lakeside Inn I think it's called.

Q. For a period of three to six weeks, is that right, that's what you told us? A. Yes.

Q. And that was shortly prior to the time when Judge Davis loaned you $4,000 is that right? A. Yes, sir, correct.

Q. Now you also recall yesterday a telegram from Judge Davis urging you to pay your taxes, do you remember that?

A. Yes, sir, and the telegram was sent from Miami, I am quite sure; I thought it over last night.

Q. In that telegram the Judge said he was on his way up to come see you, is that right? A. Yes, sir.

Q. Was that telegram before or after the time when the Judge spent the three to six weeks? A. What date, please, sir, help me that much?

Q. I am asking you can you recall? A. I believe it was after his stay in Mt. Dora that he had gone on to Miami and sent the wire from Miami.

7055 Q. When was the first time that you knew that Judge Davis was coming to Mt. Dora, to spend these three to six weeks? A. I did not know when he was coming for the exact time or period or date.

Q. But you did know that he was coming, did you not? A. No, I did not know that he was coming; he never sent me any wire because he would have wired the hotel I am quite sure.

Q. So your story is that Judge Davis arrived in town unexpectedly so far as you were concerned, and stayed there from three to six weeks, is that your story? A. That's my story, sir.

Q. You didn't ask him to come? A. I have no recollec-
7056 tion of asking him to come.

Q. You didn't suggest that he come? A. I don't recall, sir, at this year suggesting that he come.

Q. Did he ever suggest that he come to Mr. Dora? A. I can truthfully say I have been glad to have him come.

Q. Did you ever suggest that he come to Mt. Dora? A. I have.

Q. When did you make such a suggestion? A. Possibly the first time a dozen years ago.

Q. Did you often make such suggestions? A. I can't say that I have, sir.

Q. You did as a matter of fact once suggest that he come there and talk over some business deals with you, didn't you? A. Yes, sir.

Q. And when was that time? A. That's when the Town of Mt. Dora was foreclosing on my property on a paving lien and I either wrote Judge Davis, I don't put that down that I did but I met him there and asked him.

Q. You met him where? A. Met him in Mt. Dora, and told him of my distress, and if he knew of anyone that would loan me the money to pay off this paving lien.

Q. And he came to Mt. Dora at your suggestion to discuss your business with you, did he not? A. No, sir; he came to Mt. Dora because he has friends at the Lakeside Hotel and he stopped there more than once, two or three times, in the last three, four, five years. 7058

Q. This is another visit, a different visit than the three to six weeks visit, is it? A. The visit that you are talking about that he wired me from Miami?

Q. Wait a minute, let's go over this again. You said that the time he was there from three to six weeks he came without any knowledge of yours, he just happened to show up, is that right, and you then said there was another visit, we discussed a lot of business and he came at my suggestion, is that right? A. He didn't come at my suggestion, gentlemen. He was in the Town of Mt. Dora at the Lakeside Hotel. 7059

Q. And at the time he was at the Lakeside Hotel which was the time he stayed from three to six weeks, that is the time when the Judge discussed with you the possibility of getting those paving liens removed, is that right? A. He would try to see if he could get a loan for me.

Q. That time, and that was the loan of $10,000 that eventually developed out of that conversation, is that right? A. I truthfully believe it was.

Q. And at that three to six weeks visit you also discussed the $4,000 loan that the Judge was going to make you himself, didn't you? A. That was later after I had secured the help for the paving lien.

Q. Then there were two visits then, weren't there, of the Judge, on which business was discussed? A. Possibly there were.

Q. There must have been or else the two conferences about the two different subjects, the $10,000 and the $4,000, must have happened on the same visit. Was it one or two visits? A. One happened first, gentlemen, and I secured the
7061 help in October '36 I believe, and the following Spring when he was in Florida during the Winter I got the help of $4,000 to clear up the Eustis Packing Co.

Q. As a matter of fact you cleared up the Eustis Packing Co. at the same time, approximately the same time, that you paid the taxes, didn't you; that $3,600 of taxes? A. Thereabout, I should think it would be that Spring; I wouldn't be sure of that.

Q. The record shows it was within a very few days, all these things were done together. Let's see if we can't get this a little bit clearer. When was the first time that Judge Davis ever came to Mt. Dora and discussed any of your
7062 business or his business with you? A. About the year '35.

Q. What part of the year '35? A. Whatever month he was down there, in the Winter months, I can't say.

Q. It was Winter anyhow, you are sure of that? A. Oh, yes.

Q. And 1935? For your information I will tell you that you got the $10,000 loan in November 1935. Does that help you to place when Judge Davis was there and discussing that question with you? A. Well, he hadn't got down then. It was from the '34 that I must have asked him for the help.

Q. Sometime in the Winter of '34? A. Yes, sir.

Q. When you say Winter, what do you call the end of Winter down there? A. We term it from December to March, that's about our tourist season.

Q. Then you say Judge Davis was down there discussing the possibility of getting you a loan for your paving lien in the Winter of 1935, is that right? A. He told me that he would do all he could to get me the loan.

Q. Wait a minute, all I want to know is when this conference took place; we'll find out later what was said. A. Bound to have taken place during the year '35.

Q. You say it was bound to; is it your testimony that it did take place during the Winter of '35? Is that your testimony? 7064 A. Yes, yes, it would be, because you say I got the loan in '36.

Q. No, I said you got the loan in November of 1935.

Juror: Couldn't the Winter of 1935 have been January, February or March of 1935, couldn't that have been the time approximately?

Mr. Willauer: That's what I am trying to find out.

Q. Will you answer that question? A. Yes, I answered that it must have been before that. Would that put it then '34?

Q. Well, it was during the Winter of '34 to '35, sometime 7065 in there, December of 1934 or January, February or March of 1935, was it? Was it during those four months? A. Well, now, what if I am mistaken? I believe it was.

Q. That's your best belief and recollection? A. That's my best belief, gentlemen, yes, it is.

Q. Where was the first conference with reference to the possibility of a loan to get rid of those paving liens between Judge Davis? By where I mean was it in your house, was it at the hotel, just where? A. I can't help thinking we were walking through the groves and that's where he told me he would do all he could to get the loan for me.

Q. By can't help thinking you mean that's your best recollection? A. That's my best recollection.

Q. Who brought the subject up? A. I did.

Q. And what did you say? A. That I would pay 8% interest on the money.

Q. Is that the first thing you said? You must have said something about asking him for a loan first. A. I did.

Q. Tell us what you said then; you didn't start off with any 8% talk. A. I'd start off I imagine just like you people trying to get a loan. I said I am in distress.

7067 Q. Do you recall what you said, not what you imagine, do you recall what you said? A. No, sir, not the exact words I don't.

Q. Tell us your best recollection of what you said? A. My best recollection is that I told him I could compromise with my city, the town of Mt. Dora, the borough, for $10,000 about $30,000 worth of paving liens if I could get the money right away. He said he would let me know but he couldn't tell me then. "What interest will you pay?" I said, "8%".

Q. That 8% is the legal rate of interest in Florida, is it? A. Yes, sir.

7068 Juror: Why did you ask Judge Davis. A. That was my kind of best hope to get him to look up some one of you folks North, sir.

Juror: What would he gain by lending you $10,000? A. He wouldn't gain anything, sir; I'd gain a whole lot though. It would keep them from taking my property.

Juror: The fact of the matter is you are not paying 8%, are you? A. I am paying 8% on the $10,000, that is, I have kept the interest up; well, now, pretty soon I have to pay some more.

By Mr. Willauer:

Q. You asked Judge Davis whether he, Judge Davis, would lend you that money first? A. He told me he couldn't lend it to me.

Q. Did you ask him whether he could? A. No, I asked him if he knew anyone that would lend it to me.

Q. What did he say in reply? A. He would look into it when he came home and see if he could find anyone.

Q. Did he hold out any hope that he could find anyone at that time? A. No, sir; but he said he would let me know as soon as he got home, and I believe about six weeks later 7070
I got some word from him that he was trying to get it through a Mr. Kaufman and would let me know definite.

Q. After you talked to Judge Davis, did you talk to Mr. Cooley, the city attorney, about the possibility of compromising this paving lien, did you? A. Yes, sir, and told him, I'd give him one or two hundred dollars to represent me and get the tax receipts all figured out for me and the abstract.

Q. The answer to my question is that you did talk to Mr. Cooley? A. Yes, sir.

Q. Now when did you first talk to Mr. Cooley? A. About the time that they were foreclosing on me which was 7071
about somewheres during these months that we just discussed, sir. Cooley was the attorney, gentlemen for the Town of Mt. Dora.

Q. What did you say to Mr. Cooley? A. Well, his name is Thomas Cooley. I said, "Tom, do the very best you can for me to get the composition, that is, to get the town to compromise with me for cash the best they will settle for."

Q. What amount did you mention you were willing to pay? A. I don't believe I mentioned amount but I think he told me that he could get it settled for $10,000 if I could get anybody to get me up $10,000, he could settle for that.

7072 *Grand Jury Testimony of Charles Lee Stokley*

Q. Who did you tell him was going to advance the money? A. I didn't know at that time.

Q. You are sure you didn't know when you first talked to Mr. Cooley? A. I didn't know when I talked to Cooley about the price.

Juror: You knew it was a friend or client of Judge Davis's that was going to do it? A. That was going to make me the loan?

Juror: You knew that? A. I didn't know about that. I did not know whether it was a friend, but
7073 he was to get the money from someone North if he could.

Q. As a matter of fact what you told Mr. Cooley was that Judge Davis was going to advance you this money, isn't that so? A. I have no recollection of telling him that he was going to advance me the money, but he was going to try to get it for me.

Q. Let's get the order of these events right. You had in what you call the Winter of '35 a talk with Judge Davis? A. That's correct.

Q. And Judge Davis according to your version of it said, "I can't advance $10,000, but I will go up North and see if
7074 I can't find somebody that will advance it," that right? A. That's correct.

Q. What was the next thing of these two things that happened? You tell us now that you had a conference with Mr. Cooley about trying to get a deal through with the town for $10,000 and you also tell us that at the same time Judge Davis advised you that he had a person named Kaufman who advanced the money. Those are two things. Which of those two things happened first; your talk with Cooley or your talk with Judge Davis? A. My talk with Cooley must have been first because I didn't even know at the time just what the amount was going to be; he was going to get it

just as cheap as he could for me. I think he first claimed they wanted $12,000.

Q. You say your first talk with Mr. Cooley occurred before you knew you were going to get the money from any source, is that right? A. Yes, sir.

Q. When was this talk with Mr. Cooley now that we have fixed? A. During the Summer months; I couldn't say just when; he's a neighbor right in town.

Q. During the Summer months of '35? A. Before I got the $10,000 loan, yes, sir.

Q. And before you had any information that it might be Morgan Kaufman who would lend the money, is that right? 7076
A. Yes.

Q. At this talk with Mr. Cooley what amount of money did you mention that you were willing to put up to take care of these liens? A. Well, I have just explained. I gave him after it was settled $200 to get it as cheap as he could for me.

Q. Wait a minute, that's not my question. I will repeat it. At this talk with Mr. Cooley did you say that you thought you could raise $10,000 or did you say that you thought you could raise some other amount of money? A. I can't say; I don't recall.

Q. Did you ever discuss with Mr. Cooley a figure of 7077
$7500? A. It seems that I did. I won't say that for sure.

Q. Did you tell Mr. Cooley that Judge Davis would lend you $7500 and take a mortgage back as security? A. Well, it looks like that would have been out of reason because the town wouldn't take that.

Q. Did you or didn't you tell Mr. Cooley that Judge Davis would lend you $7500 and take a mortgage back for security? Did or didn't you ever tell Mr. Cooley that? A. It seems that I did.

Juror: What do you mean by it seems? A. I can't say, gentlemen; I can't answer that.

Q. You know that don't you? Didn't you tell Mr. Cooley just exactly that, and you know you asked Mr. Cooley to write a letter to the Judge about that proposition. Now you remember that, don't you? A. I remember something about it but I can't say the exact conversation or what was said but there was something that I was trying to get him to negotiate with the Judge to see if he could get me the money.

Q. In other words what you did with Mr. Cooley was this, you went to Mr. Cooley and you told Mr. Cooley that Judge Davis was willing to lend you $7500, didn't you? Didn't you say that to Mr. Cooley? A. I can't say that I
7079 did.

Q. Do you deny that you did? A. No, I do not.

Q. You may have then said just that? A. I couldn't recall all my correspondence and my talk with Mr. Cooley in every way, in detail, gentlemen.

Q. You don't deny that you said that to Mr. Cooley that Judge Davis was going to lend you $7500, you don't deny that, do you? A. I won't deny that.

Q. And you admit that you may have said that, don't you? A. His records will show if I said it; I mean if I wrote it.

Q. Wait a minute, did you or didn't you say that to Mr.
7080 Cooley? A. I can't say.

Q. You may have said it? A. I can't answer it.

Q. You may have said it, may you not? A. I won't say that I didn't and I won't say that I did, sir.

Q. Why won't you say whether you did or did not? What is your reason for not saying? A. Not that I am trying to cover up anything but I truthfully do not remember those details.

Q. That's not very much of a detail. That's the most important thing about the whole thing, isn't it, that Judge Davis was going to lend you $7500 and take a mortgage

back, now that's not a detail that you can forget, is it? A. It shouldn't be.

Q. Certainly it shouldn't be. Now don't you remember telling Mr. Cooley that that was the proposition? A. There was something said along that line but I couldn't swear to it.

Q. You mean you said something along that line to Mr. Cooley? A. Yes, sir.

Q. In other words you did tell Mr. Cooley that Judge Davis was going to lend you $7500? A. I won't say that I did.

Q. But you say that you said something along that line. 7082
Now what did you say along that line to Mr. Cooley? A. It would have been something like this——

Q. Not what it would have been, what was it? A. I can't remember.

Q. How can you forget? You admit that it is a very important thing and that it ought to stay in your mind. Now is it because you don't want to remember? A. No, sir, I want to tell you all.

Q. I am sorry but it doesn't appear that you do. Now think it over again and tell us the whole truth on this thing and don't forget, you are under oath and that everything you say here can be verified. A. I am doing the best I know how, sir. Well, now, if I don't remember there is no need 7083
of swearing that I do remember.

Q. Who told you to make that answer? A. No one told me to make that answer.

By Mr. Correa:

Q. Whom have you talked to about this investigation? A. With the Government men down in Florida.

Q. And with whom else? A. Mr. Breese.

Q. Who is he? A. He's a Government man at Norfolk.

Q. With whom besides Government men have you talked to about this investigation? A. My son that was up here.

Q. And who else? What lawyer have you talked to about the investigation? A. What lawyer?

Q. Yes. A. I don't recall mentioning it to any lawyer, sir; you mean in the State of Florida?

Q. Lawyer anywheres, in the State of Florida or any other State, in the State of New Jersey or in the State of New York or in any other State. A. What place?

Q. What lawyer have you talked to about this investigation? Now you understand that question, Mr. Witness; it
7085 is not a difficult question to answer; let's have an answer, please? A. I don't know of any lawyer that I have talked to, sir, about the business we are attending to now.

Q. What Judge have you talked to about it? A. What Judge?

Q. Yes. A. I will come clean. I have talked to Judge Davis.

Q. And when did you talk to Judge Davis about it? A. I talked to Judge Davis—do you want me to tell you what he told me?

Q. I want to know when did you talk to Judge Davis about it? Just answer my questions as I put them. A. I talked to Judge Davis about it Sunday; had dinner with
7086 him.

Q. Sunday this week? A. Yes, sir.

Q. Where did you talk to him about it? A. I talked to him about it in his home.

Q. Did you stop off there on your way up? A. No, sir. I came direct here.

Q. How did you come to go to Judge Davis's home, did he send for you? A. No, sir; I always stop to see him when I am in these parts.

Q. Did you go out to his home? A. I went out to his home, yes.

Q. Did you call him up first and tell him you were coming? A. No, I didn't call him up but I went to his home.

Q. Did he know you were coming? A. When I got to the depot I called up Lawrenceville 37.

Q. Was he surprised to hear you were in town? A. I couldn't say.

Q. Tell us what conversation you had with Judge Davis, starting with the time you phoned him? A. He says, "We won't discuss the case. Tell the facts as it is, Charley, tell the whole truth."

Q. What was your telephone conversation when you phoned from the depot? A. That I was in the City. 7088

Q. You hadn't advised him before that, had you, that you had been served with a subpoena? A. No, I hadn't wrote him a thing about it.

Q. So far as you know he hadn't known about it, is that correct? A. I don't think he had.

Q. Don't you know whether he knew it or not? A. My belief that he didn't expect me to be subpoenaed, sir.

Foreman: It's only two days ago, you ought to be able to remember that.

Q. What—don't you know whether he knew you had been subpoenaed before you telephoned him from the depot last Sunday? Do you have to think long over the answer to that question, Mr. Witness? A. No, sir; I told you gentlemen I went to see him Sunday and I phoned when I got in the town. 7089

Q. What was your telephone conversation over the phone? Whom did you get when you telephoned that number? A. I got his house.

Q. Whom in his house did you get? A. Mrs. Davis.

Q. And what did you tell her? A. That I was going to spend Sunday with them.

Q. What did she say? A. To wait there and they would send down for me.

Q. Was she surprised to hear that you were in that part of the country? A. It seemed so.

Q. What did she say indicating her surprise at your being there? A. I couldn't say; we didn't have any lengthy conversation, only I was there and they sent for me.

Q. Why do you think that she was surprised that you were in that part of the country? This happened Sunday, Mr. Witness? A. Yes.

Q. Your recollection is fairly clear about this? A. Yes, absolutely.

Q. Can't you give us an answer to that? You say she was surprised to hear you were there. What was it that she said that led you to that belief? A. She said, "You are up here from Florida?" I said, "Yes, ma'am." "I am surprised," or something to that effect.

Q. She said she was surprised? A. Yes.

Q. You are sure of that now, are you? A. Yes.

Q. What happened next, did you go out to Judge Davis's house? A. Yes; had dinner with him.

Q. You saw Judge Davis? A. Yes.

Q. Who else was present? A. His wife and his sister, an old lady, and his cook.

Mr. Willauer: Which one of the Kaufmans was there? A. Neither.

By Mr. Correa:

Q. Have you told us everybody that was present? A. His son was there, Robert, he's sick.

Q. And who else? A. A school teacher, no, a nurse by the name of Miss Lakowsky that comes from Moorestown, had dinner with them.

Q. Who else was present? A. That's all was present that I know anything about.

Q. Was Mr. Kaufman there? A. No, sir.

Q. Was any lawyer there for Judge Davis? A. No, sir.

Q. Was there any outsider there? A. No one else that I saw in his home.

Q. Did you talk to him about this investigation? A. Nothing more than just what I have said.

Q. What conversation did you have with him about the investigation? A. He says, "We won't discuss the case. State the facts as it is and tell the truth."

Q. Now when did this conversation take place, as soon as you came into his house? A. No, sir, after we set off to ourselves in the parlor. 7094

Q. That is, you and he retired to the parlor, is that right? A. Yes.

Q. Was that his suggestion? A. Yes, the front veranda.

Q. Was that his suggestion? A. That we go on the porch in the parlor?

Q. Yes. A. Well, it wasn't his suggestion but we both walked in there and sat down.

Q. Didn't he want to get you off away from the other people to discuss this matter? A. No, because it was his own family there, there was nothing——

Q. There were outsiders, weren't there? There was the nurse and others? A. No, she wasn't sitting with us; she was talking with Cousin Marguerite. 7095

Q. When you went off by yourselves who opened the conversation? A. In regards to this all that was said——

Q. No, in regard to the entire conversation. Tell me just how the conversation developed, who started it? A. He says, "How bad is your damage down in Florida? They tell me that all the vegetables are ruined." I told him yes, my strawberries were practically ruined and the lettuce and celery and crops were injured.

Q. Go ahead, tell us the entire conversation? A. We talked over many things in regards——

Q. I want the whole conversation, just from beginning to end. Can't you tell us that, Mr. Witness? This happened Sunday. A. One thing he asked me about, he said, "So Bill is married," that's my son that was married here since New Years, and he said he met his wife and thought she was a nice little girl and he stated there was one redeeming feature about her, he said, she didn't have too much to say, she was very modest.

Q. Tell us the conversation, I want to know how much of this you discussed before you got through? A. Well, sir, that's all that I can definitely recall, was just a friendly
7097 conversation.

Q. I want you to tell us what was said. This happened Sunday, Mr. Witness, there is no excuse for your not remembering the substance of it at least; just go on and tell us just how the conversation developed.

(Stenographer relieved.)

A. We talked over conditions in Florida, as to what this freeze would mean to the State, and I have a claim in for the medfly. He says, "Do you reckon you farmers will get your medfly loss?" It happened in 1928 or 1929, and they buried all of our oranges from the medfly. He told me—he talked about fishing. There is a canal that comes into Mt.
7098 Dora. He has gone fishing with my darky named Roosevelt.

Q. What else was said? A. He said he greatly enjoyed a fish fry. We had in Rock Springs the calico bass, that is a perch.

Q. Go ahead. You discussed all these things and you still haven't got to the investigation. I want the entire conversation as it developed. A. You have practically the story of the whole conversation as best I can give it to you.

Q. Then after your conversation of your daughter-in-law and the negro named Roosevelt and the fishing in the canal, did you finally get down to the investigation? A. That

is the height of the investigation and all of the investigation, was what I have told you.

Q. Did you finally get down to the investigation? A. He was the only one spoke of the investigation. He says, "Tell it as the facts"——

Q. How did he bring it up, the subject of the investigation? A. I would naturally say he says, "Charlie, you are here on the investigation. Tell it as it is. We won't discuss it because you are going to be with those gentlemen."

Q. Right in the middle of all this conversation about your family and fishing and one thing and another he said, "Charlie, you are here on the investigation?" A. It was at the end 7100
of the conversation he told me.

Q. He turned to you and said, "Now, Charlie, you are here on the investigation?" A. That's right.

Q. What did you say? A. I listened to him.

Q. Did you say, "Yes, I am here on the investigation"? A. Yes.

Q. He said, "Charlie, you are here on the investigation". What did you say to him? A. Yes, sir.

Q. You said "yes, sir"? A. Yes.

Q. And nothing else? Just yes? A. There was nothing else that I knew.

Q. Is that all you said? A. Yes. 7101

Q. What else did he say? A. Just what I have told you.

Q. That is "we won't talk about it"? A. No, sir.

Q. What did you say to that? A. I listened to him.

Q. Did you say anything? A. No, sir.

Q. Did you say you wouldn't talk about it? A. He wouldn't talk about it. He simply said, "You are here on an investigation. State the facts as they are."

Q. What facts? A. The facts that I knew that you gentlemen have been questioning me.

Q. Did he tell you to state these facts we have been questioning you about? A. No, sir.

Q. How long had you been in this house when this conversation about the investigation finally took place? A. Possibly an hour or two hours.

Q. You had had dinner? A. No, we had dinner later.

Q. This took place before dinner? A. Yes.

Q. And you had been there about an hour or two? A. Possibly.

Q. And you had had a considerable discussion about other matters first? A. Yes.

Q. Hadn't anybody asked you up to that time when Judge Davis turned to you and said, "Charlie, you are here
7103 on the investigation"—hadn't anybody asked you before that how you came to be in this part of the country, that is, anybody in the Davis household? A. I talked with his wife over the phone when I called her up.

Q. You didn't tell her how you came to be there. A. No.

Q. Hadn't anybody asked you—hadn't Judge Davis or his wife or anybody present asked you how it was you happened to be in New Jersey? Is it difficult to answer that? A. I told you all that was said.

Q. I am now asking the specific question which you ought to be able to answer with respect to something that happened last Sunday. After you got in the house did anybody
7104 ask you how you happened to be in this part of the country? A. No one of the family. I don't recall anyone asking me.

Q Did the cook ask you how you happened to be in this part of the country? A. No.

Q. So no one asked you? That is what you mean when you say no one in the family? A. I did most of my conversation with the Judge in the parlor.

Juror: When you talked to Mrs. Davis on the telephone from the depot, did Mrs. Davis ask you why you were in town?

The Witness: No, sir, I can't say she did. She said she was surprised I was here in the winter time.

Juror: Can you state definitely she did not ask you why you were in this part of the country?

The Witness: She didn't ask me that.

Juror: When this car came to meet you at the station, who was in the car?

The Witness: The Judge came down and met me.

Juror: When you saw him did he ask you why you were in this part of the country?

The Witness: I believe he was surprised that I am subpoenaed.

Juror: Will you answer the question? 7106

Q. Did he ask you why it was you were in this part of the country when he came down to meet you in the car? A. Yes, sir.

Q. What did you tell him? A. I was subpoenaed by the Govt. to come and be here on the 15th.

Q. For what purpose? A. To bring certain papers in regard to this investigation. That is why I am here. I didn't go into any details with him.

Juror: Did you tell him what papers the Govt. asked you to bring up here?

The Witness: No, sir. 7107

Q. Did you show him the subpoena? A. No, sir. I had my subpoena in my grip.

Juror: Was there anybody else in the car with you and the Judge?

The Witness: No, sir.

Q. Did you drive directly from the station to his house? A. To his house.

Q. You didn't stop anywhere? A. No, sir.

7108 *Grand Jury Testimony of Charles Lee Stokley*

Juror: How long a drive is that?

The Witness: I should say it is 3 miles or 4 miles to Lawrenceville.

Q. When you told him you had been subpoenaed—when you told him when you got in the car you had been subpoenaed, what did he say? A. He said he was surprised that I was called.

Q. What else? A. That is all he said about that.

Q. Did you have any conversation with him during that ride? A. Yes, in regard to the snow and it is the first snow
7109 I had seen in 32 years.

Q. How long was it since you had been up north? How long is it since you have been up here? A. I was up here in the summer a year ago or a year ago this summer.

Q. How long is it since you visited Judge Davis at his house? A. I was here to the World's Fair and helped set out the palms on the grounds in New York along in May and I stopped by and spent the night with the Judge going back home.

Q. How long did you stay at his house in Jersey on this day, last Sunday? A. I left Monday morning on the first train I can get coming this way.

7110 Q. You stayed over night? A. Yes.

Q. Did any guests come in Sunday night? A. None that I saw or knew of.

Q. Don't you know? This happened Sunday. A. I told you the guests that were there was this lady from Morristown, N. J.

Q. And no one else came? A. Not that I saw unless they come in the back way.

Q. Neither of the Kaufmans came? A. No, sir. I haven't seen them since I have been here.

Q. Did Judge Davis's lawyer come? A. No, sir.

Q. Who is Judge Davis's lawyer? A. I couldn't tell you, didn't know he had one.

Q. You don't know now that he has one, do you? A. I do not.

Q. You are quite sure of that? A. I am sure I don't know he has got a lawyer. Do you mean a lawyer to defend him in this investigation?

Q. I am asking the question of you. A. No, sir, I do not.

Q. And you are sure of that? A. Yes.

Q. How did you get back into town the next morning? A. I came on the Pennsylvania.

Q. Did somebody drive you to the station? A. Yes.

Q. Who? A. The Judge.

7112

Q. Did he say anything further about the investigation? A. No, sir.

Q. Or about your appearance before this Grand Jury? A. No, sir.

(Stenographer relieved.)

Q. What were his final words to you when he left you? Did he make any arrangements to see you again before you went back? A. No, sir.

Q. Didn't he invite you to stop in again before you went back? A. No, there was no invitation to stop going back.

Q. Are you going to stop in before you are going back? A. I shouldn't stop. As soon as you gentlemen are through with me I have to go back to my State to take care of my crops; it is quite a little frosted.

7113

Q. You have no plans to see Judge Davis again? A. No, sir.

Q. Is this the first time you discussed the investigation with Judge Davis? A. Yes, sir.

Q. This was the first time you discussed it with him? A. Yes, sir.

Q. You understand when I say the investigation I mean any investigation that the FBI or any Government agents were making? A. I haven't talked it over with the Judge at all except what I just told you.

Q. I just want to be sure you know what you are talking about. You were interviewed by Government agents, weren't you? A. Yes, sir.

Q. How long ago were you first interviewed by them? A. The first interview was along in the Fall I believe; his name was Breese.

Q. The Fall of last year? A. Yes, the Fall of '39.

Q. Did you discuss with Judge Davis at any time the fact that Government agents had been around to interrogate you about this matter? A. No.

Q. Or about anything? A. No.

7115

Juror: Did you write him? A. No, I never wrote him anything about it.

Q. Did you call him up over the telephone and tell him? A. No, sir.

Q. You didn't communicate with him in any way about any investigation being made by Government agents, is that correct? A. None that I have any recollection of.

Q. Mr. Witness, this is a matter you must have recollection of. I am referring only to these past few months. A. By the way, to enlighten you, Judge has been down home this Winter and on down to Miami.

7116

Q. When was he down in Mt. Dora this Winter? A. He was down to Mt. Dora about a month ago.

Q. And did you see him down there? A. No, sir; I was in Norfolk, Virginia, selling some oranges.

Q. Did you see him in Norfolk, Virginia? A. No, sir.

Q. Did you see him any place else? A. Yes, I saw him at his home Sunday.

Q. How long before that had you last seen him? A. I had seen him last Summer when I was up here at the World's Fair.

Q. That was the last time you saw him? A. Yes. I missed him being in Norfolk when he was in Florida this year.

Q. Have you corresponded with him or talked to him at any time between last Summer and this Sunday? A. You mean if I wrote him any letters or anything?

Q. Yes, have you written him any letters or gotten any letters from him or talked to him over the telephone? A. No, sir.

Q. At any time during that period? A. No, sir.

By Jurors:

Q. Did your son communicate with him? A. I can't say.

Q. Did your son see him when he was visiting in Mt. 7118
Dora? A. Yes, sir, he stopped by home.

Q. Did Judge Davis know that you had been investigated by the FBI when you met him in Lawrenceville? A. Yes, he did Sunday.

Q. From whom did he get that information? A. Well, I told him.

Q. Did he know about it prior to that? Had anybody told him about it before that? A. I don't know that they had.

Q. Wouldn't you know if your son had? A. No, sir, I don't know.

7119

By Mr. Gahagan:

Q. Would you cooperate with us this afternoon in calling Florida and having your check books, cancelled check stubs and your bank statements sent up here for our purposes? A. Gladly.

Q. We'll call over the Government phone so you stay and talk with us afterwards. A. All right.

(Witness excused until 2 P. M. February 21, 1940.)

7120 *Grand Jury Testimony of Charles Lee Stokley*

CHARLES L. STOKLEY, recalled, testified as follows:

By Mr. Willauer:

Q. Mr. Stokley, yesterday afternoon we were trying to find out from you your discussions with Judge Davis in connection with this investigation and you told us of one discussion you had with him which was last Sunday, and you told us in that discussion that very little was said between you two other than the Judge told you to tell the truth. You have had the night to think it over. What else did he say
7121 that you can recall? A. He said, "You know the facts; tell the truth."

Q. The facts about what? A. The facts of the transaction, I suppose, between Morgan Kaufman and myself.

Q. Then you did mention the Morgan Kaufman transaction in your discussion, did you not? A. No, sir.

Q. Then how do you know what he had in mind when he said "Tell the Facts"? A. That would be the way I would term it.

Q. That does not answer the question. How do you know he had the Kaufman transaction in mind when he said, "Tell the facts"? A. I didn't know.

Q. Didn't you just say you understood that was what he
7122 meant? A. I tried to term it that way.

Q. In other words, your testimony is that the name of Morgan Kaufman was not mentioned in your discussion of last Sunday between you and Judge Davis? A. No, sir.

Q. I believe your testimony was that the next time previous to last Sunday that you saw Judge Davis was when you were up here last summer in connection with the World's Fair? A. That is correct.

Q. What discussion about this investigation did you have with Judge Davis then? A. I didn't have any with him.

Q. Did you at that time tell Judge Davis you had been interviewed by FBI agents? A. No, sir. I had not.

Q. When were you first interviewed by an FBI agent or any other Govt. man in connection with this case? A. Mr. Breeze of the City of Norfolk.

Q. What did Mr. Breeze ask you? A. He had quite a lengthy write-up as to what I knew in regard to my transaction with Morgan Kaufman.

Q. You told Mr. Breeze, didn't you, that you did not yourself know anything about the transaction but that your son down in Florida knew all about it? Isn't that what you told him? A. To that effect. I thought there was more of a record there at home than I could tell him from memory. 7124

Q. As a matter of fact also you told him Judge Davis was a friend of yours, didn't you, and you did not tell him he was a cousin of yours? A. I can't say.

Q. Did you tell any Govt. man who interviewed you in connection with this case Judge Davis was a friend of yours without telling the man Judge Davis was a cousin of yours? A. They never asked me anything of my kindred to him.

Q. Answer the question. Did you ever tell any Govt. man who interviewed you in connection with this case Judge Davis was a friend of yours without mentioning that he was a cousin? A. I don't recall.

Q. Was Mr. Breeze the first Govt. man that saw you? A. He was. 7125

Q. After that did you advise Judge Davis that the Govt. was investigating you? A. I did not.

Q. When was the first time you ever told Judge Davis anything about this investigation? A. I haven't been with Judge Davis——

Q. Answer the question. When was the first time you told Judge Davis that the Govt. was investigating this Florida transaction? A. I never told him; I knew he knew.

Q. How did you know he knew? A. I understood in this country they were investigating him.

Q. How did you understand that he was being investigated? What caused you to get that knowledge? A. I don't know.

Q. Come on, you must know that. Here is a man who has benefited you greatly and helped you and been your friend and your cousin and you tell me you don't know how you happened to hear he was being investigated? A. Through Mr. Breeze.

Q. Why didn't you tell me that in the first place? A. I do, I told you that then.

7127 Q. You said first you didn't know how you happened to know. Are you sure Mr. Breeze was the first—— A. Mr. Breeze was the first gentleman that approached me in regard to it.

Q. My question is how you got your first knowledge that there was an investigation of Judge Davis. How did you get that knowledge? A. Through Mr. Breeze.

Q. Didn't Judge Davis tell you he was being investigated? A. No, sir.

Q. Did you ever have with the exception of last Sunday any conference, correspondence or telephone discussions or any other means of communication with Judge Davis with reference to this investigation, with the exception of last

7128 Sunday? A. Not that I remember.

Q. Wait a minute. Are you sure? Now search your memory. It is inconceivable to me that if F. B. I. people would come and investigate a transaction that you had with a close friend of yours and a cousin of yours, that you would not tell him; do you want this jury to believe you did not communicate with him in any way, shape or manner, and, mind you, you better be sure that you tell the truth because statements that you make can be verified. Come clean. If you have got anything to tell us, this is your chance to do it. A. I have nothing to say.

Q. By that you mean you want this record to show that with the exception of last Sunday you never communicated

in any way, shape or manner with Judge Davis with reference to this investigation or the fact that F. B. I. agents had been to see you or Govt. men as you call them, or that there was some question as to the Morgan Kaufman transaction. That is your testimony and you want to stand by it? Now be sure. Is it or isn't it? A. I have no memory of any communication with the Judge in regard to an investigation.

Q. There wasn't any communication between you and Judge Davis with reference to this matter either directly or indirectly? A. I have no knowledge of it.

Juror: I wonder if he will answer yes or no. 7130

Q. Can you answer yes or no? A. I have no memory of it.

Juror: I want to know yes or no.

The Witness: I have no memory of it. I don't recall ever conversing with any of my family in regard to it.

Juror: I said directly or indirectly with anybody, yes or no.

The Witness: Gentlemen, I don't recall. I know I didn't write him anything.

Juror: Yes or no.

Mr. Gahagan: Did your son talk to him? 7131

The Witness: I don't know.

Mr. Gahagan: Wouldn't you know if he did?

The Witness: I am certain Paul did not and I don't believe—Billy visited him during Bucknell University Commencement——

Q. Which year? A. This year.

By Mr. Gahagan:

Q. Did Billy know about the investigation that had been made by Breeze of you? A. After I went back to Florida, I told him I had been investigated.

7132 *Grand Jury Testimony of Charles Lee Stokley*

Q. And Billy knew that? A. Yes.

Q. Did you tell Billy you talked to the Judge about it? A. No, sir.

Q. Billy really handles all your affairs? A. What I have.

Q. He handles your books and everything? A. Yes.

Q. He has got a half interest in your place? A. Yes.

Q. A half interest that is not recorded any place? A. No.

Q. Although he is half owner of your property—Billy is interested in this property down there? A. Yes.

Q. He left a job with the American Can Co. to go down
7133 there to rehabilitate your property? A. Yes.

By Mr. Willauer:

Q. Billy told the Judge about this then A. I couldn't say, this was before I had been investigated by Mr. Breeze.

Q. What do you mean? You mean the time Billy went to Bucknell University? A. Was along at the close of the college year and this was later that I was investigated.

Q. When were you first seen by any Govt. man in connection with this investigation? A. I think it was July, I was selling oranges at Virginia Beach.

Q. Do you think by reason of this investigation there is
7134 any danger that you might lose your property? A. I wouldn't care one way or the other.

Q. I didn't ask you that. Do ~~you think~~ that? A. I don't know.

Q. Has anybody suggested that thought to your mind? A. No, sir.

Q. Is that thought in your mind? A. Since we froze out I am thoroughly discouraged.

Q. Has anybody given you the idea that if you tell us all the truth about this thing that you might get into some trouble with your property yourself or lose your property? A. No, sir.

Q. Are you afraid you might? A. No.

Q. You are sure you haven't got any sort of fear of that sort? A. No, sir. I wouldn't give a dollar's difference——

Q. How much is that property worth down there? A. Well, when it was in good shape——

Q. I mean all your orange groves? A. Today they are worth about $5,000.

Q. Your total holdings of orange groves in Florida including your house? A. Absolutely.

Q. What were they worth at the time Morgan Kaufman put up the $10,000. A. $30,000.

7136

Mr. Gahagan: How do you account for the drop in value?

The Witness: The trees are bursted, 50% of them are damaged, so it will take all they are worth to bring them back to bearing.

Q. Let us go back to the time when you were discussing with Judge Davis the possibility of raising some money to take care of these paving liens and get your property back from the town. At that time you told Judge Davis your property was worth about $30,000, didn't you? A. Yes, sir.

Q. Did he verify that information anywhere, so far as you know? A. I believe I am telling it straight if I say he visited Morgan Kaufman and I believe it what I said was true—— 7137

Q. Perhaps you didn't understand the question. You told Judge Davis the property was worth about $30,000? A. Yes.

Q. Did he check up on your story with anybody else to find out whether it really was worth $30,000, so far as you know? A. I can't say.

Q. You know as a matter of fact he did check up with the Chief of Police Storey, don't you? A. I did not.

Q. You never talked to Chief of Police Storey about this yourself? A. No, sir.

Q. You know him? A. Quite well.

Q. Judge Davis knew him too, didn't he? A. I didn't know he knew him. It is just a small town and the Marshal in the town—it is possible he did know him.

Q. You remember yesterday we were talking about a discussion you had with Mr. Cooley in which you told Mr. Cooley Judge Davis was going to advance $7,500 to get this property back and that Judge Davis was going to take a mortgage to secure it? Now, you remember, don't you, you told Mr. Cooley those facts, don't you? A. I have got to answer yes or no? I fully believe I did but I couldn't swear
7139 to it.

Q. Didn't you tell Mr. Cooley to write Judge Davis about a proposition of Judge Davis loaning $7,500 and taking the mortgage back? You told Mr. Cooley to do that, didn't you? A. It seems that I did; I can't say for sure.

Q. You know Mr. Cooley did write such a letter? A. No, I didn't know that.

Q. Why did you tell Mr. Cooley it was Judge Davis who was going to lend you the $7,500? You wouldn't lie to Mr. Cooley, would you? A. No. It was because I thought the Judge would be the source of getting it up. As to who from I didn't know but it was his name I gave Mr. Cooley
7140 no doubt.

Q. Do you remember you attended a meeting of the Town Council at which the proposition of $10,000 was finally decided on? A. I think Mr. Cooley represented me at that meeting.

Q. You were at the meeting, weren't you? Were you at any meeting of the Town Council when the question of a compromise by the Town of their paving liens was discussed? Answer that yes or no. A. I have no recollection of being there.

Q. If Mr. Cooley would testify that you were there, would you deny that you were there? A. If I were there

and Tom says I was there, I will fully believe I was there but I have no recollection of being there.

Q. That is just an illustration of what I mean, when I say these things you tell me can be verified. You better start coming clean and tell us the truth and stop saying you don't remember. A man can't forget the most important thing in his life, which that was to you, very easily and be believed when he says he forgets. You don't want us to believe that sort of stuff, do you? A. I do not.

Q. Were you or weren't you at that meeting of the Town Council when this proposition was discussed? A. If I say I was there and I was not, then I am misconstruing the thing and I don't remember being there. 7142

Q. Then your answer is you don't remember whether you were at such a meeting? A. I do not.

Q. Let me refresh your recollection. At that meeting you told various members of the Town Council Judge Davis was going to lend you this money; remember that? A. I don't remember.

Q. What has happened to your memory since yesterday? Have you been talking to anybody about this case last night? A. No, sir.

Q. You talked to Mr. Gahagan last night? A. I did.

Q. Talk to anybody else? A. No, sir. 7143

Q. You did not telephone Judge Davis? A. I did not.

Q. You are sure you did not? A. I certainly did not. The subject wasn't discussed with anyone.

Q. Where did you spend last night? A. With my daughter in Maplewood, N. J.

Q. Did you make any telephone calls? A. No, sir.

Q. Did you see anyone in your daughter's house? A. No, sir, no one but the family.

Q. Who was in the family? A. Three grand sons—three of her sons and her husband.

Q. What is her husband's name? A. T. F. Chalker.

7144 Q. What is her address? A. 8 Euclid Ave., Maplewood, N. J.

Q. Let us go back to the meeting of the Town Council, as I am sure you must have some memory of it. You remember, don't you, the original proposition you told Mr. Cooley was for a $7500 compromise; you remember that, don't you? A. I am going to say I do. I have a faint recollection of having a conversation with Mr. Cooley.

Q. You also remember that you finally raised the proposition to $10,000, don't you? A. It seems that Mr. Cooley wrote me while in Norfolk the best he could do for me was a
7145 compromise of $10,000.

Q. Didn't you at the meeting I am speaking of of the Town Council tell the Town Council you would go as high as $10,000? A. I have no recollection of that whatever.

Q. No recollection of ever having been at any meeting of the Town Council where this question was discussed? You are sure now? A. I don't remember.

Juror: Don't you ever remember going with Cooley to the Town Hall?

The Witness: No, sir. It seems at that time——

Juror: I don't know what it seems; if you say no, it's all right.

7146

By Mr. Gahagan:

Q. How long a ride is it from where you were on Sunday to Judge Davis's house? A. About 4 or 5 miles.

Q. That is from the town of Trenton? A. Yes, from the Penn. station.

Q. In Trenton? A. Yes.

Q. To Lawrenceville? A. Yes.

Q. How long a ride was it from the place you spent the night to Lawrenceville—Trenton? A. I spent the night at his home right in Lawrenceville.

Q. Which night? A. Sunday night.

Q. The night before, Saturday night—where did you spend Saturday night? A. I was in Maplewood.

Q. How long a ride is it from Maplewood to Trenton? How long did it take you? A. I have an idea it takes 40 minutes.

Q. What time did you get up in the morning, do you remember? A. I don't know.

Q. This is last Sunday. A. Yes.

Q. Two or three days ago. A. It would be about——

Q. Did you get up at 12 o'clock noon? A. Got up at 7148
8 o'clock, say.

Q. Then you do remember what time you got up? A. Thereabout.

Q. What train did you get? A. Is there a train something like 9 o'clock?

Q. You took it, just last Sunday. Do you remember what time it was? A. About 9 o'clock.

Q. Had you made any arrangements for Judge Davis to meet you before you got to Lawrenceville? A. No.

Q. Didn't you go to Lawrenceville and to Judge Davis with the intention of going to church with Judge Davis or his Bible class? A. Yes.

Q. Did you go to his Bible class? A. I certainly did. 7149

Q. What time does his Bible class start? A. First Baptist Church—about quarter past 11.

Q. You made no arrangement with Judge Davis to meet you at the train that morning before you arrived in Lawrenceville? A. I did not.

Q. Did you have any information as to whether or not Judge Davis was at his home in Lawrenceville at that time? A. No, sir.

Q. Do you want these gentlemen to believe you got up in the morning at 8 o'clock, took this 35 minute or 50 minute trip on the train to Trenton—— A. Yes.

7150 Q. You were then 4 or 5 miles from Judge Davis's house? A. Yes.

Q. And that was the first time you called Judge Davis or knew he was at his home? A. Correct.

Q. From the time you came up here; when did you come here? A. I came here on the 15th.

Q. That was a Friday? A. Thursday.

Q. Did you talk to Judge Davis after you came up here before that Sunday? A. No, sir.

Q. Did you phone him? A. No. I phoned him when I
7151 got to the depot in Lawrenceville; his wife answered the phone.

Q. Did your son write a letter or call Judge Davis from Florida telling him you were going to come up here? A. I have no knowledge of it.

Q. Did you tell him to? A. No, sir.

Q. Did you write a letter to him? A. No.

Q. Did anyone in the household you stay in call him? A. No, sir.

Q. When I talked to you last night, I understand you told me you had very lean years from 1931, 1932, 1933 and 1934, is that right? A. Yes.

Q. During those years did Judge Davis befriend you in
7152 any way? A. No, sir. The only befriending I have had from Judge Davis was the $4,000 that I had paid $2,700 of it back.

Q. You paid $2,700 back? A. Yes, and they charged 8% interest for every dollar.

Q. Judge Davis did? A. Yes, sir, for the $4,000.

Q. He never did anything else for you? A. Not one—I never received another dollar from him.

Q. Did he help anyone of your family during that period? A. No, sir, he never even helped Billy in college, he worked his way through Bucknell.

Q. He went to Bucknell? A. Yes.

Q. Is that the place where Judge Davis is a trustee? A. He is trustee or what would you call it, director, or something. He never gave him one penny's help.

Q. Did your son have a scholarship at Bucknell? A. No, sir, he met with the President of Bucknell College at a forum club in Florida, Mt. Dora, and Dr. Hunt, and through Dr. Hunt he went to Bucknell but not through Judge Davis.

Q. My question was did he have a scholarship at Bucknell? A. No, sir.

Q. Did he get any aid from that institution to help him along to maintain his status in that place? A. No, sir. The 7154
vegetables and milk we sold, that helped get him through school.

Q. During all that time you paid for his schooling? A. Absolutely.

Q. Have you any record of the payments made? A. He did get a loan from the school for $150 which he has paid back.

Q. Have you a record of the payments made to the school? A. I believe they could be got—I have not——

Q. How were they paid, by check? A. By the month, yes, possibly it was sent by check.

Q. And those checks that are coming up here from Florida should contain the checks to Bucknell University? 7155
A. I believe there will be some in the 1933, 1934 and 1935.

Juror: What do you mean the boy worked his way through college?

The Witness: He waited on tables and helped in other ways around the school.

Foreman: Did he get paid for that.

The Witness: He got his board, and we paid his tuition.

Foreman: He didn't get any cash for working?

The Witness: No, sir.

7156 *Grand Jury Testimony of Charles Lee Stokley*

By Mr. Willauer:

Q. I want to read you a telegram I have got from the F. B. I. You were interviewed by this Govt. agent from Texas, whose name is Mr. Winstead, I will tell you, at the time you were subpoenaed, weren't you? A. I was subpoenaed just a few days after that.

Q. He interviewed you about that time? A. Yes, sir.

Q. Where is this property, other property of yours, that you told him about and you said we didn't know anything about? A. You mean the Govt. didn't know anything about?

7157 Q. You meant somebody didn't know anything about it. Where is this property you were telling Mr. Winstead about? A. That is really news to me.

Q. Let me read the telegram: "During the interview Stokley giggled and confided he had other property that they don't know about. He said that he received a subpoena to appear before the Grand Jury but there was nothing to it. He says that Judge Davis was too smart and that when Davis heard about the trouble, he left Miami immediately and retired." What did you mean by those statements? A. I meant as far as the property, that they thought I had put everything in it, Morgan Kaufman—I have some that is free and clear.

7158 Q. Where is that property that is free and clear? A. In the Town of Mt. Dora, adjoining my home place that I had put all of that in with Kaufman——

Q. That answer does not make sense to me. You have some property in the Town of Mt. Dora that who does not know about? A. It must be that Morgan Kaufman because he tried to make me put in everything I had, put in the pet grove, and made me put in a cement building I had in East Town which is our darky settlement.

Q. You meant by that remark when Mr. Kaufman was lending this money you held out some property on him? A. I had a list to show him of my property that was free

and clear and the property the Town was getting a paving lien on, and he saw the pet grove. He says, "You have to put that in and the cement building."

Q. You have not answered the question. What is this property that you say you held out and what were you referring to when you told Mr. Winsted that? A. It couldn't have meant only I held out this property, he was asking me how much I put in to Morgan Kaufman, and went over to Tovares and got off the records and was reading certain properties. He says, "This goes in to Morgan Kaufman." I says, "Yes." He says, "You would like to put in everything you had?" I says, "I have some they don't know about." 7160

Q. Who was "they"? A. Kaufman or Davis.

Q. Where is this property that neither Kaufman nor Davis knows about? A. It was 5 acres near to my home place that we call the Malusky Grove.

Q. And you own that free and clear now? A. With the exception of some taxes against it that we hope to clear up this year.

Q. What did you mean by the remark when Judge Davis heard about the trouble, he left Miami immediately and retired? A. I have an idea he was in Miami and he came back—— 7161

Q. When? A. During the spring or summer, that he never even stopped——

Q. Summer of what year? A. This last year.

Q. You told the agent that when Judge Davis heard of the trouble he left Miami and retired. A. I said those exact words, I fully believe.

Q. How did you know Judge Davis had heard of the trouble? A. I was north and my son was in Florida and he drove with Judge Davis from Florida to Trenton.

Q. When was this? A. During the month of June, I believe.

Q. This year? A. I can't say what month it was.

Q. In other words, you were lying to us earlier in the day when you said nobody in your family, either directly or indirectly, discussed this case with Judge Davis, weren't you? A. I didn't know of anyone that discussed it with him, only Billy drove for him.

Q. And they talked all about the case and that is how you knew that Judge Davis knew he was in trouble, and that is why you told the agent that, isn't it? A. I told the agent
7163 everything I could to enlighten him——

Q. And you were lying to us a little while ago? (Question repeated). And they talked all about the case and that is how you knew that Judge Davis knew he was in trouble, and that is why you told the agent that, isn't it? Strike the question out. I will ask another one. As a matter of fact, your son discussed this case with Judge Davis, didn't he? A. I can't say whether he did or not. He was driving him up and went to the commencement.

Q. You just told me that the reason that you knew that Judge Davis was in trouble was because your son told it to him when he, the son, was driving Judge Davis north. You
7164 just told me that, didn't you? A. I tried to tell you that. I told my agent there in Florida that.

Q. In other words, some member of your family did discuss this case with Judge Davis, isn't that so? A. I don't believe he would have driven 800 miles with him and not have discussed it with him.

Q. Wait a minute. You know, don't you, that the case was discussed between your son and Judge Davis? Don't you know that? A. I believe so.

Q. Do you or don't you know your son discussed this case with Judge Davis? Answer yes or no. A. I should certainly say I know he did.

Q. You do say you know he did? A. I don't believe he could have come that distance——

Q. You do say you know your son discussed this case with Judge Davis, don't you? A. Yes, that is why I tried——

Q. The answer is yes? A. Yes.

Q. You know your son discussed this case with Judge Davis? A. Yes.

Q. Then you did lie to us a little while ago when you were asked both by me and by a member of the jury whether or not any member of your family discussed this case directly 7166
or indirectly with Judge Davis? A. I thought you meant when I was up here.

Q. Did you lie to us then? Strike that out. You formerly testified that no member of your family, either directly or indirectly at any time, talked this case over with Judge Davis. Your former testimony was not correct, was it? A. Yes, but I did not——

Q. Was it correct or was it not correct? A. At any time——

Q. Answer the question yes or no. Was it correct or was it not correct? A. It couldn't have been correct.

Q. It wasn't correct, was it? A. If you meant at this time here, I have no knowledge of it. If you meant the same 7167
as I told the Govt. man, undoubtedly Billy had discussed it with him.

Q. You knew when you were first asked about this in this room that Billy had discussed—talked to Judge Davis? Did you not know that? A. At that time when he came up I suppose he talked with him about it.

Q. You just told me you knew he discussed it.

Juror: Did Billy tell you he had talked with the Judge?

7168

The Witness: No, but I naturally knew he did, he drove up from Florida with him to go to the commencement.

Juror: Didn't you learn from Billy the Judge was being investigated and in trouble?

The Witness: I was in Virginia at the time.

Juror: When Billy came back from having visited Judge Davis, didn't he tell you the Judge was being investigated and was in trouble?

The Witness: He did in the fall when I got back home.

7169

By Mr. Correa:

Q. Didn't he tell you the Judge knew he was being investigated at the time Billy had driven him up from Orlando or whoever it was? A. From Miami.

Q. Didn't Billy tell you the Judge knew he was under investigation? A. In the fall he did.

Q. Your son told you that the Judge knew he was under investigation? A. Yes, we talked it over just as you would in any home.

Q. The Judge had told him he knew he was under investigation, is that correct? A. Yes, I am quite sure that

7170 would be correct.

Q. That is what your son told you? A. Yes.

Q. You have been asked in here, it seems to me, repeatedly and in the broadest possible manner, whether you had discussed this investigation with Judge Davis and whether any member of your family had discussed the investigation with him at any time. Don't you recall being asked those questions? A. No, sir, you asked if I could——

Q. Reflect back. You were examined yesterday afternoon by me about this, do you recall that? A. About my trip to Trenton.

Q. And you were examined about whether you discussed this investigation with Judge Davis too, do you remember that? A. Yes.

Q. And you were examined again today before I came in the room here at the beginning of the session. A. I was last evening.

Q. Were you examined today about whether you discussed the investigation with Judge Davis? A. Yes.

Q. And weren't you examined as to whether or not any member of your family had discussed the investigation with Judge Davis? A. I said they had, I believed.

7172

Q. What was your reason for not telling the jury earlier in the day when you were asked those questions of your son's conversation with Judge Davis about the investigation last summer? A. Gentlemen, the way you put it up to me, I didn't understand what way you were getting at it. I am willing to tell everything as it is and I don't mean to take up a minute's time to try to tell it perfect.

Q. Didn't you know this jury is interested in finding out whether or not any member of your family had discussed this matter with Judge Davis? (No answer).

Juror: I think he is confused whether it is a discussion or round table talk about it or gossip.

7173

Q. Are you confused as to what the word "discussion" means? A. You mean gossip or talking about it?

Q. Is that what you mean? Did you talk about it? A. Yes, sir.

Q. When I asked you whether any member of your family has discussed the case with Judge Davis—— A. (Interrupting) I told you I believe Billy did.

Q. What did you mean when you said he discussed the case—that they talked about it back and forth? A. There was such a thing pending; I think he told him that.

Juror: Last night I asked Mr. Stokley if his son had ever had any discussion or communication with

Judge Davis with reference to this case and I understood him to say no.

The Witness: That was the son that was up here, Paul; he has not anything to do with it.

Q. I just want to say this: we are not here to get information from you that we already have; in other words, when you are asked these questions, you should respond with all the information that you have that bears on the subject you are asked about and not wait until you see whether we know it already and then answer, and that is exactly what
7175 you have been doing in here, and you have been waiting until you see what we have got and then you will admit just that much and no more. I want you to give us all you know about these transactions.

Juror: If you think you are shielding Judge Davis or in any way aiding his cause by not telling us the truth about your relationship and your discussions or any member of your family's discussions with Judge Davis, I think you are giving us a wrong impression. You are prejudicing our mind against Judge Davis by your lack of candor with us as to the facts of the case which you must know.

7176 The Witness: Please don't take it that way. They have done me no favors but what I paid 8% interest.

Juror: Why don't you tell us the truth then?

The Witness: I truly am. They have done me no favors, not even my sons or anything, either he or Morgan Kaufman, but what we paid 8% interest.

Juror: Going back last Sunday night or Saturday night, you spent the day in Maplewood——

The Witness: He has visited me in my home——

Juror: Last Saturday night you spent in Maplewood? Where were you last Saturday night?

The Witness: Saturday night—you have got me turned around and I beg pardon. Saturday was when

we didn't hold a session, did we? Please, sir, Saturday was when I went to Judge Davis. I am all wrong and I beg pardon. I didn't mean—I meant to tell it as it was.

Juror: What was this about Judge Davis's Sunday school?

By Mr. Correa:

Q. When did you go to Judge Davis, on Saturday, Saturday morning? A. Yes, sir.

Q. And you stayed there the day—— A. Stayed at Judge Davis's over Saturday night and Sunday. 7178

Q. You were there Sunday all day? A. Yes.

Q. When did you come back? A. Monday morning. I was thinking I was here each day but Saturday we didn't hold session.

Q. You were there two days and two nights? A. Yes.

By Mr. Gahagan:

Q. You were quite clear about the Bible class incident, weren't you? A. Yes.

Q. And we likewise talked this all over last night again? A. Yes.

Q. We went over it calmly and quietly and I might say I was very sympathetic with you? A. I thank you; you were. 7179

Q. And you were not rushed? A. No, sir.

Q. You had plenty of time to think and make your answers? A. Yes, sir.

Q. And you told the same story you previously told here this morning, that you went to Trenton on Sunday morning. Did you tell me that story last night? A. I was under the impression——

Q. You were not hurried at that time or under the stress of a Grand Jury proceeding? A. No.

Q. You came in this morning and told the identical story until this Grand Jury said something that made you change

7180 *Grand Jury Testimony of Charles Lee Stokley.*

your story? A. He didn't say anything to make me change it but he tells me we didn't hold the session and I was over there Saturday. I spent Friday night in Maplewood instead of Saturday.

Q. How many days ago was this? A. Today is Tuesday, I believe.

Q. Wednesday.

(Stenographer relieved.)

Q. This is only four days ago I am trying to bring out.
A. Yes, sir, Saturday, Sunday, Monday, Tuesday, four days
7181 ago.

Q. And when Mr. Correa examined you yesterday afternoon with specific reference to what happened on Sunday did it never occur to you that you were at Davis's house two days instead of one day? A. I wasn't there two days; I got there about eleven o'clock.

Q. You stayed all day Saturday, is that right? A. I stayed the remainder of Saturday.

Q. Then you stayed all day Sunday? A. That's correct.

Q. Then you came in Monday morning. What time did you get the train? A. The first train, he brought me down to the train so I get in by noon, before noon.

7182 Q. That's practically two days. A. Pretty near.

Q. During all the time you were questioned by Mr. Correa it never occurred to you that you stayed longer than just the Sunday afternoon which I am sure you led certainly myself to believe you were there one day. A. Sunday night.

Q. Yes, Sunday night. A. Spent Sunday night there.

By Mr. Correa:

Q. Do I understand you want to cooperate with this grand jury? A. I truly do, sir.

Q. I am going to give you one opportunity with respect to some testimony you gave yesterday and see if you want to

change it or add to it in any way, and I am going to ask you again, during your visit to Judge Davis last weekend, what discussion did you have with him concerning this investigation, and I want you to think carefully before you answer that question and I want you to answer it truthfully and fully, if you really mean to cooperate with us. A. Gentlemen, Judge Davis—the reason why there was not more said about it than there was was because I did not propose to talk it over and the Judge did not seem to press me. I had nothing to tell him; I had not been before you gentlemen even.

7184

Q. Tell us what discussion you had. Did he ask you whether you had been before the jury yet? A. He said he wouldn't talk with me about my trip to New York here. I knew the facts and he says, "State them truthfully, just as you know the facts."

Juror: Do you mean to tell us, Mr. Stokley, that you spent those two days, all of two days and two nights with Judge Davis and that's the only time, only once was that question brought up? A. I was very careful not to bring it up.

Juror: I asked you whether it was brought up? A. No, sir, it was not brought up.

7185

Q. Did you discuss the investigation with anybody else during those two days and two nights that you were out to Judge Davis's house? I want you to think carefully about that question too. A. No, sir, there was none but the home folks there too, and his help.

Q. You are quite certain of that? A. Quite certain of that.

Q. And you want us to believe it? A. Yes, sir.

Juror: What did you do all Saturday afternoon and all Saturday night? A. Saturday afternoon we

went through the town making me acquainted with some fruit men, said they were Jews and had a lovely store, and I got the prices of fruit, and for your information I can tell you I sent a load of fruit up here a year ago and the Judge helped my son by calling up over the phone to place the load of fruit and I was interested in the fruit down at Trenton to try to dispose of some that I have left that isn't frosted.

Juror: You remember all about that but you do not remember about any discussion you had with him about this case? A. Only what I have told you.

7187 Juror: Nothing at all all Saturday afternoon and all night? A. We weren't talking about the case; we were talking fruit business.

By Mr. Gahagan:

Q Mr. Stokley, you were asked at the first session of this grand jury by Mr. Willauer the following question: "As to your property in Mt. Dora, will you describe the general nature of that property and the extent of it?" I refer to grand jury minutes LB-2 Stokley. Your answer to that question was as follows: "Well, I'd say my home grove, and the property adjoining it, which would be about 17 acres, that
7188 would be my home grove. I acquired parts of it as the years go by, some dozen years quite possibly—more than that, 20 years." "In addition to that don't you own some buildings which are used for Negroes? A. Yes, sir. I have possibly 30 tenant darky houses and a cement building that keep some stores, a barber shop and restaurant I think; that about consists of it." Mr. Willauer, on LB page 3 then went to another line of inquiry asking what is your relationship to Judge J. Warren Davis. A. Yes.

Q. Did the particular property you refer to there include the property which was referred to in the report of the Fed. Bureau of Investigation that Mr. Willauer read into the minutes this afternoon? A. Does that include the property?

Q. That's correct. In answering that question did you also include the property referred to in the telegram Mr. Willauer read? I withdraw that. It was not in the telegram. You testified today that there was also some additional property? A. That was free and clear.

Q. Yes. What was the name of that property? A. The Malusky grove.

Q. Was that included in this particular description that you gave? A. No, sir, all you have there was the property that was mortgaged to Morgan Kaufman.

Q. And that's the only property that you referred to in there; this is very important may I say? A. Let me understand and I will sure help you all that God give me. 7190

Q. I want to give you plenty of opportunity on this question because I warn you now that it goes to a contempt before this grand jury. You were asked as to your property in Mt. Dora. Will you describe the general nature of that property and the extent of it, and you gave the answer which I read. You follow me so far? A. Yes.

Q. You understand what I am saying. I am not talking now a foreign language, am I? A. I see.

Q. You said, "That about consists of it." Now at that time did you know that you had this other property? In other words three days ago did you know that you owned this property? The answer is yes, isn't it? You knew that you owned the other property the other day, did you or didn't you? A. Yes, I am bound to, but it's altogether—I wasn't holding anything back from you gentlemen, it's all adjoining. 7191

Q. How many acres is your Mt. Dora orange grove? A. Let's see, let me figure just a minute. In the home grove would be 10 acres and there would be four and five would be nine—11, 12. I have 10, 7½, 5 and 5 acres, and then the Orange County grove of about 7½ acres in orange grove.

Q. It's confusing to me anyway, your answer. Your answer is confusing to me. I asked you a minute ago whether or not when you gave this answer you included the property which you referred to this morning, what was the name of that property? A. The Malusky property?

Q. Yes. And your answer was no, is that correct? Your answer this afternoon, two minutes ago, was no. Is that correct, that this answer did not include the Malusky property, didn't you say that just a second ago? A. Why, all of it is adjoining. I was explaining to the Government man——

7193 Q. I don't want a lengthy explanation. I want to know whether I didn't ask you a second ago—you understood what we're talking about, you gave the answer that it was not included in that answer. A. The description that you have there is all that I have but I had one piece adjoining that free and clear.

Q. I think this is a subject for one of the Judges downstairs. I'd like to read into the record at this point another question, I asked you, referring to LB-8 Stokley, "Did you have any property outside of Orlando, the 12 lots in Orlando, the Orange County grove and the Mt. Dora property, those three pieces you talk of? A. No, sir." My next question, "That's all the property you own in Florida? A. That's my
7194 holdings, I am quite sure." A. Well, I have a cement building and the darky houses.

Q. I think that's enough. I think the record is clear now.

By Mr. Willauer:

Q. Now I want to read you again from this report that I have got from Agent Winstead. "Agent Winstead reports this conversation with you, that you told him that you had received a subpoena to appear before the grand jury but there was nothing to it, Judge Davis was too smart. A. That's wrong.

Q. Did you or did you not say that or substantially that to Agent Winstead? A. I have no need to have said that to him.

Q. I ask you whether or not you did say that to him? Now don't hedge. Tell me yes or no, did you say that or substantially that to Agent Winstead? A. I didn't say that Judge Davis was too smart. I told him everything I could tell him to help him then.

Q. Wait a minute. You didn't say that Judge Davis was too smart? A. No, sir.

Q. Did you say with reference to your subpoena to appear 7196
before this grand jury that there was nothing to it, did you say anything like that? A. No, sir, I didn't tell him any such thing. I didn't have a subpoena at that time.

By Mr. Correa:

Q. Do you deny that you told the Agent that? A. That Judge Davis was too smart?

Q. Yes. A. I truly do.

By Mr. Willauer:

Q. Do you deny that you told the Agent that there was nothing to it, referring to the subpoena to appear before the grand jury? A. I hadn't received a subpoena at that time. 7197
I got my subpoena the next day.

Q. Now wait a minute. The Agent reports that you told the Agent that you had received a subpoena to appear before the grand jury. Now you were talked to by this Agent after you had received the subpoena, were you not? A. When he was up to my place it was the day before I was served the subpoena.

Q. Who served the subpoena on you? A. A gentleman from Orlando; I can't say just what his name was; it shows on the subpoena.

Q. Did he tell you what his job was? A. It shows on the subpoena.

Q. Let me see your subpoena. A. It's downstairs.

Q. Did he tell you whether he was an FBI Agent or not, the man who served the subpoena on you? A. No, sir, he did not.

Q. Did he tell you whether or not he was a Deputy U. S. Marshal? A. I don't believe he did.

By Mr. Correa:

Q. Did he show you a badge? A. No, sir, I didn't see any badge on him. He's a tall gentleman like Mr. Willauer
7199 and he never showed me any badge.

By Mr. Willauer:

Q. Did he show you anything that looked like that? A. No sir.

Q. Not the picture? A. No, sir, he did not.

Q. He didn't show you any identification? A. He handed me this subpoena and I was planting—trying to get my potato crop in.

Q. I don't care about your potato crop. Were you interviewed by anybody connected with the Government after you received your subpoena? A. No, I left——

7200 Q. Were you or were you not, answer that yes or no. A. I have no recollection of anyone else until I got here.

Q. Your testimony is that after you received the subpoena you were not interviewed by any person connected with the Government until you got up to New York, is that your testimony? A. That's my testimony, sir.

Q. And you further testify that at no time whether before or after the subpoena was served on you, did you say that Judge Davis was too smart and that there was nothing to the grand jury proceeding or anything like that, did you ever say anything of that sort? A. I did not.

Q. Then you must want us to believe that the FBI Agent is lying when he reports that you said that, that's what you

want us to believe? A. The FBI sat there and told how he speeded and caught Billy going to Atlanta with his girl and the whole conversation——

(Question read to witness.) Answer that yes or no.

A. No, I never told him any such thing.

Q. Never told anybody connected with the Government any such thing? A. No, sir.

By Jurors:

Q. You want us to believe that the FBI Agent is lying? A. If he accused me of saying Judge Davis is too smart I 7202
never conversed——

Q. In other words, you say he was lying when he made that report? A. I don't understand how he come——

Q. You want us to believe that he was lying, don't you, say yes or no? A. You can believe anything you want to.

Q. What do you want us to believe. A. (No answer)

Q. A while ago the question was put as to whether Mr. Stokley himself, or any member of his family, or any other individual whatever had at any time been talking to Judge Davis regarding this investigation, and I understood the witness to say, no, at any time, he did not, outside of what he said he did on Sunday. Since then he has admitted that 7203
his son talked to Judge Davis, and when he was confronted with that and asked if he was not lying in saying that he had not talked or any member of his family or anybody talked to Judge Davis, he said, "I understood it was just this week-end." Now, the question he had answered before that was distinctly not this week-end; it was covered over a long period of time.

Mr. Willauer: I will ask the witness to step out of the room a minute.

(Witness excused and then recalled.)

By Mr. Willauer:

Q. Now, just before we stopped we were trying to find out about this reported remark of yours that you had received a subpoena to appear before the grand jury but there was nothing to it and that Judge Davis was too smart, and you finally left it with us that you had not talked to any Agent after you had received the subpoena, so you wanted us to believe therefore you couldn't have made any such remark. Now, let me refresh your recollection. Is it possible that the Government Agent told you that there was a subpoena on the way, that you were going to get one pretty soon, and at that conference you talked and said these things that I have just spoken of, is that possible? A. I never said anything to any Agent that Judge Davis was too smart.

7205

Q. Never said that at any time before or after receiving the subpoena? A. No, sir.

Q. And you never said anything to the effect that there was nothing to it, referring either to the grand jury proceedings or to the fact that you were going to receive a subpoena or you had received a subpoena, you never said anything like that? A. There was no cause for saying it.

Q. Did you or didn't you ever say anything like that? A. I didn't say anything like that.

7206

Q. You didn't say precisely that? A. No, sir.

Q. You didn't say anything that could be so interpreted? A. There had been no need.

Q. Did you or didn't you? A. I didn't.

By Mr. Gahagan:

Q. You think he's smart, don't you? A. I think Judge Davis is smart?

Q. Yes. A. Why, I would naturally say that a man of his caliber shouldn't have gotten into any such mess as this, if he was smart.

Q. Why do you think he's in a mess? A. Well, to cause me to be subpoenaed up here when I am trying to make an honest living with my groves.

By Mr. Willauer:

Q. Why do you think that Judge Davis is in a mess, not you, Judge Davis? A. Well, I will withdraw that. I will say that I won't say that I think so.

Q. You did say that you thought so, didn't you? Answer that question. A. Just then I made the assertion that I wouldn't have thought, that he wouldn't have gotten into any such mess as this. 7208

By Mr. Gahagan:

Q. But don't you understand, Mr. Stokley, that you are in the mess, don't you realize that? Judge Davis isn't in here; you are in trouble now. A. For borrowing money from him.

Q. You borrowed money from him and you got in trouble because you borrowed money from him, because you borrowed money from Judge Davis? A. Yes.

Q. And you don't see any reason because you borrowed any money from Judge Davis why you should get into trouble, do you? It's a perfectly fine thing to borrow money from Judge Davis; he's your cousin; why shouldn't you borrow money from him? A. I pretty near paid him back. 7209

Q. The big money that you borrowed from him?

Mr. Correa: We are going to suspend, at this time, gentlemen, in order that this witness may be brought down before the Judge who has sent for him to admonish him with respect to his demeanor in here and also with respect to testifying frankly and answering questions responsively.

(Witness was taken before Judge Clancy.)

Mr. Correa: Let the record show that at the request of the grand jury the United States Attorney

brought this witness down before the Judge and this witness was admonished by the court to answer the questions put to him fully and frankly; and he was also admonished in the event of his failure to do that or his continued failure so to do the court would find it necessary to find him in contempt.

By Mr. Willauer:

Q. Who is Rosalie Brantley? A. A young lady in our town that's worked for a bonding company.

7211 Q. Does my asking you her name refresh your recollection as to how you came to buy those bonds which were used for your bond credit to pay your taxes? A. Yes, sir.

Q. In what respect does it refresh your recollection? A. She was borrowing a boat to go over on an island that she owns and I spoke to her about the bonds and she told me that they could be bought through some St. Petersburg firm; I think you read the name, sir; I can't remember it.

Q. Was it Ed Right & Co. that you bought those bonds from? A. Please, sir, I can't tell you.

Q. Well, it was Rosalie Brantley then that told you about this bond house, wasn't it? A. Either she or the clerk of the court. I can't—who influenced me to buy them I couldn't

7212 say, whether it was Rosalie Brantley or Mr. Dykes. He didn't have bonds to sell, don't get that, but he suggested there was a company that I could save on my taxes if I'd buy these bonds, and pay them instead of using the money.

Q. You now think, don't you, now that I have refreshed your recollection, that Rosalie Brantley was the person who may have given you the idea about where to go to get those bonds? A. I really do.

Q. How did you happen to forget her name before? A. Mr. Willauer, I had so much to think of that I forgot it.

Q. You weren't trying to hide her name from us, were you? A. I certainly was not.

Q. Mr. Witness, that's just an illustration in my mind of what Mr. Correa just finished telling the Judge, that you do not tell us anything until you know that we know it. Now we know plenty about this case and you better start in telling us the truth now. Judge Davis was in Florida and you asked him whether he could get you some money to redeem your land from the town. A. Yes, sir.

Q. Now, will you now tell us truthfully what was said between you and the Judge in that connection? A. I couldn't tell you the whole conversation, but he said that he could, he would try to get a party to make me the loan.

Q. Didn't he say that he would make the loan himself? 7214
A. No, sir.

Q. Why did you tell Tom Cooley that he said that he would make the loan then? A. I meant it in a broad way, gentlemen, that the Judge would be the instigator for getting the money for me.

Q. The Judge then at least was the moving party and the arranger in getting this loan for you? A. He was.

Q. Did you ever know Morgan Kaufman before you met him through the Judge? A. Never until I met him in Judge's chambers. I came from Florida to meet him there to get the loan.

Q. And at that time the whole deal was already arranged, 7215
wasn't it, when you met Morgan Kaufman? A. No, sir.

Q. Be careful now. A. The contract was drawn in the Judge's library where they keep the law books.

Q. Now, let's see, the time that you talked to Morgan Kaufman in Judge Davis's chambers the deeds had been drawn, had they not? A. No, sir; no, sir.

Q. The title company had started to look up the title, hadn't it? A. No, sir, not to my knowledge, because Morgan Kaufman sent a lawyer——

Q. Let me interrupt you here. When did you talk to Morgan Kaufman in Judge Davis's chambers? A. During the month of October I believe.

Q. October, 1935. You got the loan in November of '35? A. Yes, sir.

Q. Was it October of '35, a month or so before the loan? A. About, about October.

Q. Did you ever talk to Morgan Kaufman before that time that you talked to him in the Judge's chambers? A. Never met him before.

Q. Have you ever seen him again? A. One time.

Q. When was that? A. At Judge's home during the month when I was up here to the World's Fair, had dinner with him at the Judge's house.

7217 Q. Last summer? A. Yes, sir.

Q. What did you talk to Morgan Kaufman about at that time? A. Well, he said that I certainly had to keep the interest up, he was willing to bear with me in regard to my poor property earnings but I must pay the interest and I got up $600 and paid him the next week.

Q. You never repaid Morgan Kaufman anything but interest on this loan? A. Mr. Willauer, I believe a little bit on the principal.

Q. What do you mean you believe, don't you know? A. No, sir, they have the account of it.

Q. Have you ever seen a copy of it? A. I have a copy

7218 of the loan that we have sent for.

Q. Wait a minute, we are talking about an account of the money that you paid. Have you ever seen the account that Morgan Kaufman has or any copy of it? A. The returned checks for the interest.

Q. Wait a minute, what do you mean by account? You don't mean any returned checks; you mean this piece of paper with it written down, don't you? A. Yes; I have no piece of paper with anything written on it.

Q. No, wait a minute, I didn't ask you whether you have it; I asked you whether or not you have ever seen such an account? A. Only what my son would have there at home.

Q. You think your son may have an account then? A. Of the amount of interest and what's paid on the principal.

Q. What you just told me a little while ago was that Morgan Kaufman had the account. A. Well, he should have the account, sir.

Q. Then what you now say is that you do not know whether or not Morgan Kaufman has the account of what you paid but you just suppose he may, is that what you say? A. I believe he has.

Q. And why do you believe he has? A. I never heard tell of a man loaning $10,000 and not keeping an account, sir.

Q. Have you got an account yourself? A. Of Morgan Kaufman's part? 7220

Q. Yes. A. If it's at home I can claim that as much so as if I made it out myself.

Q. Do you know whether you have an account of what you paid Morgan Kaufman? A. No, sir, I do not.

Q. Yet you never heard of a man in that connection, that doesn't have an account; how do you explain that? A. Now a man loaning the money would have the exact dates that I paid the interest because he wrote me requiring that I keep the interest up and the taxes and the insurance to him.

Q. If you have such an account, in whose possession is it, where is it and who's got it? A. It would be on the way here, I hope; the gentleman phoned to Billy for it. 7221

Q. You think there is such an account, do you? A. I am not sure.

Q. How much money approximately have you paid back on this $10,000? A. The interest to date is about all, maybe $250 besides.

Q. Isn't the exact amount that you have paid back $200? A. I can't say.

Q. You paid that $200 to Judge Davis too, didn't you? A. I couldn't say that.

Q. Did you or didn't you? A. I have no knowledge of that, sir.

Q. Whom did you pay the interest to on this $10,000 loan? A. Billy attended to it since he's been home; he sent $600 right after he punched me up on the interest, he said he must have the interest if I didn't pay my agreement on the principal.

Q. Billy send cash or check? A. I think he sent check on the Bank of Tavares.

Q. And whom was that check made out to? A. I believe I'd be telling the truth if I say it was made out to Morgan S. Kaufman.

Q. Do you know whom it was made out to? A. No, sir, I do not. 7223

Q. Who signed that check? A. I had to sign it because Billy doesn't sign the checks.

Q. When was this check? A. In that summer, last summer, I can't say what date, sir.

Q. And the amount was $600, was it? A. Thereabouts, either five or six hundred.

Q. You say that you signed a check for five or six hundred dollars which is in part payment of the interest on the Morgan Kaufman loan but you are not sure whom that check is made out to, is that right? A. I am sure it was made out to Kaufman.

Q. And was last summer, was it? A. Summer or fall, but as soon as I got what money I could collect in from down to Virginia Beach and I sold the fruit to the hotels—— 7224

Q. What do you mean by fall? What months do you include in fall? A. Possibly it was July, June or July.

Q. That's summer, isn't it? A. It couldn't have been as late as in the fall because he was asking for it in the spring.

Q. This is 1939, is it? A. This last—that's the last interest I paid was this last year.

Q. If it wasn't made out to Morgan Kaufman to whom else could it be made out to? A. I am sure it was made out to Morgan Kaufman.

Q. Why are you sure now it was made out to Morgan Kaufman when you were doubtful a little while ago whether it was or wasn't? A. I am quite sure it was.

Q. Let's go back now to your meeting with Morgan Kaufman in the Judge's chambers; that was at Trenton, N. J., wasn't it? A. Yes, sir.

Q. How did you happen to be there yourself? A. I came up from Florida.

Q. Why did you come up from Florida? A. To get the loan.

Q. Who suggested that you come up from Florida? A. 7226
Judge Davis.

Q. In what form did he make that suggestion, by letter, telegram or telephone or otherwise? Tell us just how it happened? A. Now, gentlemen, truthfully I can't say whether it was by letter or wire, but I was notified that if I'd come up and bring my tax receipts I believe and the description of the property that he would recommend the loan.

Q. Who would recommend the loan? A. Judge Davis.

Q. Did he tell you whom he would recommend the loan to? A. I think he said a gentleman from New York named Kaufman; I won't be sure, he may have just said a client or a friend. 7227

Q. That was the first time then that you had heard of Morgan Kaufman's name in this picture? A. The first time I ever seen him was when I got——

Q. That wasn't my question. Is this the first time you had ever heard of his name in this picture? A. Yes—no—please put down no. He spoke of it, gentlemen——

Q. Who is he? A. Davis spoke of a gentleman in Miami that was spending the winter that he would see him and possibly he would make me the loan, but he didn't know that he would.

Q. Who was that gentleman? A. That was Kaufman who was spending the winter in Miami where Judge Davis was in the same city.

Q. When was it that Judge Davis told you this about the man in Miami? A. Possibly at my home or in the grove as I was telling you gentlemen or at the Lakeside Hotel.

Q. You mean at that original conference that you had with reference to the $10,000 loan? A. Yes, sir.

Q. In connection with the $10,000 loan how many times was Judge Davis in Florida in connection with that loan? A. He wasn't in connection with the loan; he was in Florida spending the winter and I asked him about the loan and before he left the State of Florida he told me of Kaufman and would notify me after he found out whether I could get
7229 the loan or not.

Q. How many times did you talk to Judge Davis about this loan? A. I believe in Florida when I was asking to get the loan and then after he thought possibly he could get it from Kaufman.

Q. That's two times then? A. Yes, sir.

Q. And both of those conversations were in Florida? A. Yes.

Q. How many times did you go North? A. One was when he was going to Miami and one was on his way back.

Q. How many times were you up North with reference to this loan? A. This one time.

7230 Q. That's all? A. Yes, sir.

Q. Did you have any conferences with Judge Davis or anybody on his behalf at any other time than these three occasions with reference to this loan? A. I did not.

Q. So this loan so far as your connection with it was settled with three conferences, is that right? A. Providing that he was satisfied after sending a lawyer down.

Q. Wait a minute, there were only three conferences so far as you were concerned in connection with this loan that you had with Judge Davis, is that right? A. Might I say that he was sending a man down, if he was satisfied with the property the loan was confirmed?

Q. That's all right, but you haven't answered my question yet. In the negotiations that you had with Judge Davis there were only three times that you and Judge Davis talked together about this loan, that right? A. Correct.

Q. One was on his way down to Miami? A. Yes, sir.

Q. That was the first time? A. Yes, sir.

Q. One was on his way back, and that was the second time? A. Yes.

Q. And the third was in Judge Davis's chambers at the time you first met Morgan Kaufman? A. Yes, sir.

Q. Now there can be no doubt about that, can there? 7232
A. No, sir.

Q. You can't recall any other? You understand the questions fully, don't you? A. I truly do.

Q. Now that's the whole substance of the whole thing, isn't it? A. Yes, sir.

Q. There is no more that you can remember about it in any way, shape or manner excepting those three conferences? A. Except the correspondence that I wrote Cooley from Norfolk.

Q. Yes, I haven't asked you about that yet. I am talking about conferences, and by conferences I mean sitting down and talking it over man to man or anything like that. A. Yes, sir. 7233

Q. Formal conferences, informal conferences, discussions, you understand all that? A. Yes, sir.

Q. Now when you came to Judge Davis's chambers and walked in the door whom did you see first? A. I believe the only——

Q. Whom did you see first? A. I think I saw his—what would you call it? stenographer, the lady in the office?

Q. What's her name, do you remember? A. They call her Miss Martha.

Q. Martha Kleish? A. I am quite sure that's the name. Now I am not trying to stall for time, but I don't remember it.

Q. That's the first person you saw? A. Yes.

Q. Who's the next person you saw? A. Judge Davis I am quite sure.

Q. You talked to Judge Davis then, that's the next thing that happened, was it? A. Yes, sir.

Q. What did he say and what did you say? A. He says Mr. Kaufman will be here.

Q. What else did he say? A. Well, of course we passed the time of day and so on.

Q. With reference to this transaction what else did he say? A. He had phoned or Mr. Kaufman was on his way.
7235 In a few minutes Mr. Kaufman came in the Judge's chambers.

Q. Didn't he get down to the point as to whether Mr. Kaufman was going to make this loan or not? A. Not until after he made me acquainted with him. He said what——

Q. Why did he say Mr. Kaufman was coming over? A. Because Kaufman was going to interview me, that's why I was up there, to get the loan.

Q. I see, all right. Did Judge Davis tell you that Mr. Kaufman was going to make you the loan? A. Providing he was satisfied with the security.

Q. That's what Judge Davis said? A. Yes, sir.

7236 Q. And what did you say? A. I can't recall as to what I said in regards to anything more than I was thankful to get the loan to save the property.

Q. Then did Mr. Kaufman arrive? A. He did.

Q. Who introduced you to Mr. Kaufman? A. Judge Davis.

Q. What did Judge Davis say to you when he introduced you to Mr. Kaufman? A. As best as I can say, he says, "This is Charley Stokley from Mt. Dora, Fla.", and whether he said a kinsman of mine or not I won't say, but he said, "What he will tell you about the property will be correct, I will vouch for that."

Q. Then what happened? A. We went in an adjoining room.

Q. Who is we? A. Kaufman and myself; and closed the door.

Q. And Judge Davis? A. Judge Davis wasn't with us. I went in there and had taken out of my pocket the little map I had of my property, but there was a man sitting over there reading a law book was in the room.

Q. That was Mr. Lord, wasn't it? A. That's what I found out afterwards.

Q. The Judge's law clerk, isn't he, or secretary or something? 7238 A. I couldn't say, but he was there anyway and Kaufman asked him some questions about an agreement and they got in a conversation and then he had him——

Q. Who is him? A. He had taken Lord in the conference that he and I were having together.

Q. Go on, tell me all that happened there? A. Then I had taken out of my pocket a little list of my property and I showed him the holdings that the town was trying to take from me and he says, "Have you anything else free and clear? I don't want your property," he says, "but I would make the loan if it's sufficient to secure me." That's the best I can explain his words, sir, and he says, "Why don't you put in this cement building that you claim you've got 7239 that cost $3500?"

Q. You mean as security? A. In with the holdings that the town had. Gentlemen, they had a block of property that they had run my paving lien up to $30,000, done it against my wishes, and were taking it for paving lien, and they could take my crop of oranges away from me and use it on the paving lien and would leave me nothing to fertilize it with and prune it with.

Q. I am asking you not for a general explanation of the situation which you are trying to give us, what I want from you is what was said between you and Morgan Kaufman and Mr. Lord at this conference in the Judge's chambers? A.

Kaufman said, "You have to put in more property to make me amply secure," and I showed him the four acres of my little pet grove, the best piece of property I have. He demanded that and the cement building and he would make the loan providing he sent down and had the abstract of title examined. I said I have a lawyer in Florida that will do that without sending anyone down, which was the man, Cooley, gentlemen, I spoke of here. He said, "I don't do business that way." He said, "Mr. Lord, would you go down there and check it over?"

7241 Q. Mr. Kaufman said to Mr. Lord, "Would you go down there and check it over?" A. Yes, sir, that's the best of my recollection, it was something to that effect, "and you pay his fare," which amounted to $108.

Q. By you he meant you? A. Yes; I had to stand the expense of him going down and satisfying him that the title was correct—excuse me, gentlemen, for not looking this way.

Q. That is, Mr. Lord was to go down there and search the title, is that right? A. And satisfy the town, that is, satisfy himself that the town's title to Kaufman was legal. You see, they had practically taken from me——

7242 Q. Wait a minute. You told Kaufman that you had a lawyer down there who was a good lawyer that was working for you, didn't you? A. I don't know whether I said working for me or not, but could search the title.

Q. He wasn't satisfied with that, was he? A. Seemingly not; he demanded that someone go from this country, from here.

Q. To search that title down there? A. Yes, sir.

Q. What else happened after you had had this discussion, did you do anything? A. I went back to Florida on the same——

Q. Wait a minute, did you draw up any papers? A. Yes, sir, he drafted——

Q. Who is he now? A. Kaufman and Lord outlined a paper that I should put in the pet grove and the cement building and all the town's lien paper.

Q. In other words you drafted up some sort of paper? A. Agreement.

Q. Agreement was it? A. It wasn't the same agreement printed nice that they brought me down later that we sent for; it was just an outline agreement that was later typed nice and put in a folder.

Q. Mr. Lord was the man who actually brought the check down wasn't he? A. Yes, sir. 7244

Q. What day of the week did Mr. Lord arrive down there? A. Now, Mr. Willauer, I can't say.

Q. It was a Sunday, wasn't it? A. He stopped at my house but I can't say what day it was.

Q. How many days was he down there? A. Three, I believe.

Q. Do you know how many days he was down there? (No answer)

(Witness excused until 2 P. M., Monday, Feb. 26, 1940.)

7245

CHARLES LEE STOKLEY, recalled.

By Mr. Willauer:

Q. Mr. Stokley, I have just told the grand jury that you have produced a check explaining or purporting to explain the $2500 withdrawal from the Sanford Atlantic National Bank at Sanford, Fla. Now have you such a check? A. Yes.

(Marked Grand Jury Ex. 38, this date.)

7246 *Grand Jury Testimony of Charles Lee Stokley*

Q. I show you a check which is marked Grand Jury Ex. 38 for Identification, and for the benefit of the jurors I will read the face of the check to them. It is a check on the Sanford Atlantic National Bank, the bank number of which is 63-485; it was drawn on February 28, 1936 and it reads, "Pay to the order of Cash for bonds for taxes $2500", and it is a counter check and it is signed C. L. Stokley. The perforation reads, "Paid 2/28/36 63-485." Now, Mr. Stokley, is that your signature? A. Yes, sir.

Q. And is that your check? A. Yes, sir, counter check.

7247 Q. Was that the check which you used to obtain cash to pay for the bonds used in connection with your taxes? A. It was.

Mr. Willauer: I offer that in evidence.

Foreman: Received.

(Paper marked Grand Jury Ex. 39, this date.)

Q. Mr. Stokley, whose writing is the rest of the check in? A. I wrote it all, gentlemen.

Juror: Was that written at the same time? A. Yes, at the counter.

7248 Juror: What is the point of writing to pay for bonds on your own cash check? A. To give the cash to C. C. Conklin to pay for the bonds.

Q. Why didn't you make out the check just for cash without this other language, "for bonds for taxes"? A. That was just for my own memory.

Juror: Did you write it when you cashed the check? A. No, it was written at the desk at the Atlantic National Bank.

Juror: You have an account at that bank? A. I did have.

Juror: Why didn't you use your own regular check instead of a counter check? A. Gentlemen, I had taken the currency over to Mr. Conklin and had him buy it. I was running so short of funds and wasn't taking any risk whether they would accept the check when the bonds got there.

Juror: I asked you why you didn't use your own check, you have an account at the bank, why didn't you draw your own check on your own account, why did you use a counter check? A. Gentlemen, I paid for vegetables over there and didn't keep a stub check 7250
in my pocket. This was a counter check. I used several of them. I think there will be others in the list shown.

Mr. Willauer: I don't think you have answered the question. I wonder whether you understand it fully. You had a check book, didn't you? A. Not with me. If I had a check book at home I don't recall but I was in the city on this day with vegetables and bought this to buy those bonds with.

Juror: Didn't you know that you were going to make this check out when you were home, when you had your check book with you? A. I didn't have a check book that I recall with me. We bought at the 7251
market, 110, 115 dollars for vegetables and gave a counter check; he could leave the market and go down to the bank and get the currency for it; we used counter check oftentimes.

Juror: Did you just make up your mind when you were in town that you were going to write out this check or had you intended to for several days? A. I don't know how to answer your question, why did I cash this check? was to get the bonds.

By Mr. Willauer:

Q. The question was, how many days before you cashed this check did you know that you were going to have that amount of currency? A. As soon as I got that amount in the bank I think it rightly showed the deposit; as soon as I checked it out because the day of grace was right at hand.

Q. You knew the day of grace was coming around and you knew it was coming around a week or so before you cashed the check? A. Possibly a few days before; I wouldn't say a week before.

7253 Q. Then when you went over there to get your money why weren't you prepared with a check of your own instead of using a counter check?

Juror: Would the man have accepted your check in payment of bonds? A. I don't know.

Juror: That wouldn't make any difference because it is your signature that he accepts on your account. If you had used your own check on your own stub you wouldn't have made that record on the check itself. A. I could see where I could have saved considerable confusion, gentlemen, if I had a decent record to bring in.

7254 Q. I show you Grand Jury Ex. No. 39 for identification, which purports to be a Customer's Advice from Ed. C. Wright & Co., St. Petersburg, Fla., advising the customer of the following: 3,000 Lake County 6% bonds, giving the dates and numbers, price 72½, amount $2175, shipping instructions; First State Bank Eustis, and below that, "The above described securities were shipped today March 5th, 1936." Now I show you that exhibit, Mr. Witness, and ask you whether or not that came from your records? A. It came from the First State Bank, Mr. Conklin's record, I thought, gentlemen, he was going to take my currency——

Q. Wait a minute, where did this piece of paper come from? A. From the First State Bank of Eustis.

Q. Was it in your own records? A. No, sir.

Q. Your boy sent this up to you by a letter, didn't he? A. Yes, sir.

Q. Subsequent to the time he sent these other checks, is that right? A. Yes, sir.

Q. Where did your boy get that piece of paper? A. From the First State Bank by the assistance of Mr. Conklin.

Q. Did you write your boy and ask him to go and dig these records up? A. Mr. Gahagan phoned him and told him what paper to try to get and Billy went at once and got 7256
them and sent them airmail letter.

Q. You have talked with Billy over the telephone yourself? A. Yes.

Q. You talked to him after you talked in the presence of Mr. Gahagan? A. No, just right then he allowed me to ask him how my wife was.

Q. We don't care about that. We hope she's all right. We want to know about this case, not other details. How do you know what your boy did to get this record? A. I didn't know, sir.

Q. You just told us. A. I hope that's what he did, just what he was instructed by Mr. Gahagan. 7257

Mr. Willauer: I offer this Customer's Advice in evidence.

Foreman: Received.

Q. Mr. Stokley, you have testified previously that you sent a telegram to the bond company and they wrote you or telegraphed you or some way communicated with you and told you just exactly what the price of these bonds was and then you testified that knowing what that price was you drew the exact amount of cash from the bank and gave the exact amount of cash to Mr. Conklin and that there wasn't

any change, any refund, given to you by Mr. Conklin. Now do you recall having testified to those facts that I have stated? A. You asked me those questions and I tried to answer it as best I could and I was under the impression that I had the exact change for the bonds.

Q. Now you didn't withdraw the exact change for the bonds did you? A. No, sir; it shows by the check that I was wrong. I used it in paying city taxes in Mt. Dora though, the balance I had there which I believe I could verify by some taxes, or thereabouts.

7259 Q. That's what I want to find out. These bonds cost you $2175 according to this Exhibit No. 39 which is the Customer's Advice from the Wright Company, and you drew out $2500, so there is $325 missing or unaccounted for. Now what did you do with that $325? A. I paid some city taxes in Mt. Dora and I believe I brought the tax receipts and turned it over to you gentlemen, that will make up the difference of the $2500.

Q. You are positive now that you paid city taxes at Mt. Dora? A. Yes; I didn't waste the money; I am sure I paid taxes. I had some to pay about that time.

Q. This is in February and March of 1936, isn't it? You couldn't have used that money for any other purpose than

7260 to pay city taxes, could you? A. I don't believe I did.

Q. Haven't you got a definite recollection on this? A. No, sir; I have not.

Q. Then you are just supposing you paid city taxes? A. I paid some taxes that will show about that date. I had such little money I am almost sure I paid taxes with it.

Q. Those were city taxes? A. Town of Mt. Dora.

Q. As a matter of fact a month later you owed Morgan Kaufman $2500, didn't you, according to the agreement? A. In the agreement possibly so.

Q. I can tell you positively that under the agreement you did owe him $2500, due on or before April 1st, 1936. A. That's it.

Q. Wasn't this $2500 what you used to pay that $2500 with? A. No, sir, I haven't paid that.

Q. You swear on your oath that you have never paid any $2500 amount to Morgan Kaufman? A. I do.

Q. You swear on your oath that you have never paid any $2500 amount to apply on your $10,000 indebtedness to Judge Davis? A. I do.

Q. You swear on your oath that you have not paid that amount of $2500 to apply on the indebtedness for $10,000 to anybody in the world? A. I do.

Q. Do you swear that you have not paid that amount of $2500 to apply on that indebtedness of $10,000 either indirectly or directly—now get these things—either indirectly or directly in whole or in part; at any time, to anybody? A. Except for these bonds no one else. 7262

Q. Wait a minute, these bonds had nothing to do with the Morgan Kaufman $10,000. A. No, sir, I have the meaning of your question.

Q. Will you answer my previous question yes or no? A. No, I have not paid $2500 to anyone on any debts.

Q. Now wait a minute.

Mr. Willauer: Mr. Reporter, will you read that long question having to do with direct or indirect, and I want a yes or no answer and no more. 7263

Q. (Question read to witness.) A. I do.

Q. You understand that question applies not only to $2500 but any part of $2500, you understand that, don't you? A. Yes, sir.

Q. In one of the previous sessions you testified that with reference to the $4,000 that Judge Davis loaned you himself, you have paid back about $1,000. A. No, sir, about $2,700 of the $4,000 loaned by Judge Davis.

Q. You are positive that you testified that you had paid $2,700 to Judge Davis on that $4,000? A. I certainly meant to, that's what I did.

Q. How did you pay that $2,700? A. Gentlemen, I almost sweated blood, I paid it all along in payments as best I could. I couldn't say as to just the amount each time.

Q. Now did you pay it all by checks, all that $2,700? A. I believe I did.

Q. Don't you know whether you did or not? A. I don't recall of giving him any currency. I must have paid every bit of it in small checks, each payment.

Q. Do you keep any record of those payments? A. No, I haven't got a correct record, only since Billy came home I think the last two years we have a record of each pay-
7265 ment.

Q. Who keeps those records? A. My son.

Q. That's your son Wilmer Stokley? A. Yes, sir.

Q. Have you ever seen those records? A. Well, I could have seen them; they are right there in the checker.

Q. I ask you whether you have seen them, not whether you could have seen them. A. I don't know.

(Stenographer relieved)

Q. Will you answer the question? A. I don't know.

Q. Where are they kept? A. Right in the desk, right there in the front room.

Q. If you haven't seen them, how do you know where
7266 they are kept? A. I am bound to have seen them. I am not trying to misrepresent anything.

Q. Then you have seen them, haven't you? Will you answer yes or no? A. I don't know whether—I couldn't tell the exact payments, if that is what you bring it up to.

Q. Never mind about seeing where I am getting at. Answer my questions and we will get along much faster. My question is whether you have seen the records of the repayments to Judge Davis. You can yes or no or "I don't remember." Give us one of those three answers. A. I don't remember.

Juror: How do you know you paid the $2700?

The Witness: We have worked together and counted them up as the days would go by each year, how much we paid on it.

Juror: How could you do that without referring to the records?

The Witness: I can't swear just what the amount was or that I carefully went over the records myself. He read them to me; I can hardly read.

Q. Did you ever hear of a lawsuit involving any big ship company? A. I never did, not that I know of.

Q. Did you ever hear any talk about any lawsuit involving any big ship company? A. No, sir. 7268

Q. Ever talk to any FBI agent about any such lawsuit? A. No, sir.

Q. Let me read what the FBI agent said. This is Mr. Winsted's report on a conversation had with you a very short time before you came up here: "While the above interview was in progress in an automobile, Mr. Stokley giggled and would lay his head on the agent's shoulder. During the conversation he confided in the agent that he has other property 'that they don't know about.' He also stated that he had received a subpoena to appear in New York before the Grand Jury in this matter but 'there is nothing to it.' 'Judge Davis is too smart. When he heard about this business, he was in Miami and left directly for his home and retired.' Further that 'they are trying to prove he did wrong in fixing up the case for some big ship company which was Kaufman's client and they claim he did that because Kaufman had loaned his cousin some money.' 'One of the judges told Judge Davis that his record was clean and if it wasn't for that one case, they wouldn't have a thing to investigate him for.' Did you say any of those things that the agent reports you said? A. Absolutely not, that is as foreign to me as can be. I gave him every bit of co-operation I could in regard to the school bonds—— 7269

Q. Just a minute. I want a direct answer to my question. Would you like me to read that again to you so that there will be no question? A. You read it slowly and I got every word. It is something that is absolutely foreign to me.

Q. Did you ever say anything of the material which I have read to you to any representative of the Govt.? A. No, sir. This gentleman has been in my home and I turned the desk and everything over to him and talked to him freely about my horses and all. He has rode the horses, I believe, but I never had any conversation in regard to Judge Davis and no steamship company with him.

7271 Q. Were you ever in an automobile with any agent of the FBI? A. I sat in an automobile beside him and told him about getting the bonds——.

Q. You were in an automobile with Mr. Winstead? A. I am quite sure that is his name.

Q. A man from Texas? A. He said he was from Texas.

Q. Rather a small man? A. Yes, said he had a sick wife in Orlando and I said I would send her some oranges.

Q. Had a little bit of a southern accent? A. I can't say.

Q. Where does he live now? A. Said he was working out of Miami.

Q. Did he tell you he lived in Orlando? A. He was going to spend the night in Orlando.

7272 Q. This man you sat in the automobile with you gave oranges for his sick wife? A. Yes.

Q. You recall about that. Did you ever stick your head on his shoulder? A. Never that I know anything about.

Q. Did you ever lay your hand on his shoulder? A. I wouldn't swear to that. I may have touched him on the shoulder. I don't recall doing so.

Q. Did you ever tell the agent that you had some property that they don't know about? A. I explained all about the property and it seems he asked me if these school bonds——.

Q. Wait a minute, did you ever tell the agent you had some property "that they don't know about"? A. I won't say whether I said that. I don't recall why I should have had to say that.

Q. Did you ever say anything in substance similar to that? A. I don't recall.

Q. As a matter of fact, you did tell the agent about that Malusky Grove, didn't you? A. We talked over what the bonds secured and there was nothing more only in regard to the school bonds he was trying to get——

Q. You heard my question. If you did not hear the question, pay attention to it. You did tell the agent that 7274
there was some other property that somebody didn't know about; didn't you? A. I don't recall having told him that. I told him everything about the property and that I had not secured Morgan Kaufman with the Malusky Grove. That possibly could have been what was said.

Q. You did tell the agent that you had some property which you didn't give Morgan Kaufman and which you kept free and clear? A. That is the way I meant for it to have been told.

Q. So you did have some conversation similar to what the agent reports you did? A. All about the property I did.

Q. Answer the question yes or no. (Question repeated). 7275
So you did have some conversation similar to what the agent reports you did? A. Nothing in regard to the——

Q. I am confining myself to the part of the conversation dealing with the property. Did you have some conversation about that property similar to what the agent reports? A. I don't recall mentioning—specifying any certain——

Q. Will you answer the question yes or no? A. Please ask me—read the question again.

Q. (Question repeated.) I am confining myself to the part of the conversation dealing with the property. Did you have some conversation about that property similar to what the agent reports? A. I believe I did.

Q. Don't you know whether you did or not? A. Put it down that I did, I believe that would be the truth.

Q. Then your answer is yes, is it not? A. Yes.

Q. Did you ever tell the agent you received a subpoena—you had received a subpoena to appear in New York before the Grand Jury? A. My subpoena was sent to me——

Q. Did you ever tell the agent you had received a subpoena to appear in New York before the Grand Jury in this matter? A. No, sir.

Q. You deny that absolutely? A. I do.

Q. You never told that to any representative of the
7277 Govt.? A. No, sir.

Q. At any time you never told that? A. No, sir.

Q. Did you ever say to the agent "there is nothing to it," referring to the subpoena or to the investigation? A. I have no recollection of any of that kind of conversation.

Q. Do you deny that you ever made that remark or anything similar to it? A. I do.

Q. Did you ever tell the agent or any representative of the Govt. that Judge Davis when he heard about this business left Miami immediately for his home and retired? A. I didn't know anything about it.

Q. Did you or did you not tell the agent that? A. I did
7278 not.

Q. Did you ever tell anybody in the world that? A. No, sir.

Q. Did you ever make any remark in any way similar to that to anybody in the world? A. I did not.

Q. Did any member of your family ever make any similar remark to your knowledge? A. Not to my knowledge.

Q. Did you ever say to anybody in the world "they are trying to prove he—'he' referring to Judge Davis—did wrong in fixing up the case for some big ship company which was Kaufman's client and they claim he did that because Kaufman had loaned his cousin some money? A. I did not.

Q. You understand that that question is directed to saying that to anybody in the world? A. No, sir.

Q. Did you ever say anything similar to that to anybody in the world? A. I did not.

Q. Did you ever say the substance of that to anybody in the world? A. No, sir.

Q. You understand what substance means? A. Anything leading up to it, which I did not.

Q. Is that what you understand substance to mean? A. I don't know that I do.

Q. Do you understand what substance means when I say the substance of that? A. Anything similar, anything leading to it? 7280

Q. Did you ever say anything in any way concerning any such material as I have read to you to anybody in the world? A. No, sir.

Q. Did you ever tell anybody in the world that one of the judges told Judge Davis that his record was clean and if it wasn't for that one case, they wouldn't have a thing to investigate him for? A. I did not. I never knew anything about it.

Q. Wait a minute. Do you answer no without any qualification? A. No. I do.

Q. Did you ever say anything in substance amounting to that? A. I did not. 7281

Q. Did you ever say anything in any way similar to that? A. No, sir.

Q. Did anybody ever tell you anything to the effect that one of the judges had told Judge Davis that his record was clean? A. No, sir. I never heard any such thing.

Q. Now you said you never heard any such thing. Did you ever receive any such idea either in writing or by hearing? A. I did not.

Q. That idea was never in any way communicated to you, was it? A. No, sir.

Q. And if the agent testifies that this conversation takes place, you want us to understand that the agent is a liar, do you? A. You can put it any way you want to, but I never had any conversation with him like that.

Q. In any way like that? A. No, sir.

Q. But you did have a conversation with him? A. In regard to the bonds.

Q. You did have a conversation with him, did you not? Answer yes or no. A. No, sir, not along that line.

Q. Wait a minute; you had a conversation with him, did you not? A. I did.

7283 Q. And it occurred in an automobile? A. Yes, sir.

Q. And as part of that conversation you did discuss your property and you did advise the agent that there was some property which was not included in the Morgan-Kaufman deal which you held in some way free and clear? A. That is the little piece I have free and clear.

Q. You haven't answered the question. You did tell the agent that, did you not? A. Yes, sir.

Q. In this same conversation which took place in the car? A. That is correct.

Q. But you deny everything else that the agent said as to that conversation, do you not? A. If he says that, I do.

7284 Q. You deny everything else that I read to you when I asked you the original questions on this line? A. Except the bonding work.

Q. There wasn't anything about the bonding work in this conversation. Will you answer my question? You deny everything else that the agent reports occurred in this conversation? A. That you read, I do.

Q. I want to warn you and I will give you an opportunity to change your testimony if you feel you have not told us the whole truth—I warn you that, as you were originally warned, that everything you say here can be used against you and you have a right to refuse to answer any question which

might in any way tend to incriminate you; you understand that, don't you? A. Yes, sir.

Q. I give you an opportunity—if you wish, you can refuse to answer these questions that I have directed to you on the ground that they tend to incriminate you. Do you wish to refuse to answer on that ground? A. I have told you the truth. That is all I can——

Q. Answer the question. Do you wish to refuse to answer these questions or do you ask that the answers that you have already given be stricken on the ground they might tend to incriminate you? Do you make that request to this Grand Jury? A. If there is anything that incriminates me, 7286
I don't see why it should. I never said those things.

Q. In other words, you are perfectly willing to tell this jury voluntarily and freely that you never said any of those things? A. I am.

Q. You don't wish to assert any privilege on them against incrimination? You are fully aware of your rights and you do not want to assert those rights, is that right? A. Yes, sir.

Q. You want to tell us the whole story, is that right? A. Correct.

Juror: Did you have more than one interview with this agent? 7287

The Witness: I had two interviews with this agent.

Juror: This was the only time you were in an automobile?

The Witness: Yes, sir.

Q. I would like to change the question. This is the only time he interviewed you in any automobile, is that right? By "he" I mean the agent. A. That's right.

Juror: Did he ever interview your son in an automobile?

Q. Would you mind if I rephrase your question? Did any representative of Govt. ever interview any one of your sons or any member of your family in an automobile, so far as you know? A. No, sir, I have no knowledge of it.

Q. So your answer is no, so far as you know, is that right? A. Yes, sir.

Q. Will you kindly withdraw for a moment?

(Witness excused and recalled.)

By Mr. Willauer:

7289 Q. When did you leave your home in Mt. Dora, Fla. to come north to testify here? What day of the week was it? A. Wednesday of that week, which would be before the 15th, I believe.

Q. Perhaps I can help you. Did you buy a round trip ticket? A. No, sir, I bought a one way ticket.

Q. Have you got anything left of the ticket stub which would show a stamp? A. No. I came over the Greyhound Bus Line to the City of Norfolk, I believe, and I left there on Wednesday—no, I left on Saturday.

Q. You left Mt. Dora on Saturday? A. On Saturday afternoon.

7290 Q. And you arrived in Norfolk when? A. Sunday night.

Q. And when did you leave Norfolk? A. We left Norfolk that week on Thursday.

Q. Who is "we"? A. Paul and myself.

Q. And how did you leave? A. On the Pennsylvania boat and came over to Cape Charles. From there to New York.

Q. And how did you come to New York from Cape Charles? A. Over the Pennsylvania road.

Q. On the Delmarba Road? A. I think it was the Pennsylvania Train.

Q. Where did the train take you to? A. New York City.

Q. You didn't make any stops en route? A. No, sir, we came right from Cape Charles to New York with the exception of being idle while the switches froze.

Q. On your trip up did you talk with anybody at any time with reference to this case? A. No, sir.

Q. Did you see Judge Davis or Morgan Kaufman or anybody else with reference to this case? A. I did not.

Q. You arrived here at the Pennsylvania station? A. Yes, sir.

Q. Where did you go next? A. We ate at a Stewart cafeteria. 7292

Q. What time of the day was this? A. Around noon; our train was 3 hours late.

Foreman: What day was it?

The Witness: You had a storm here the day before.

Juror: The storm was Wednesday.

The Witness: We got here Thursday and came direct here after eating at Stewart's.

Q. The calendar shows it was on Thursday, the 15th. A. Yes.

Q. After you ate at this cafeteria, what did you do? A. Came on up here, as we didn't know much about getting 7293 around——

Q. You came up here? A. Yes, reported to room 401.

Q. About what time did you get here? A. I should say around one o'clock; it was after 12.

Q. What did you do during the afternoon? A. Was here in the court all afternoon.

Q. Did you testify that day? A. No, sir.

Q. From the time you arrived in the Pennsylvania station until you came to room 401, did you have any communication of any nature with anybody with reference to this case? A. No, sir.

7294 Q. Did you see anybody with reference to this case? A. No, sir.

Q. Did your son have any communication with anybody with reference to this case? A. No, sir.

Q. Did your son see anybody with reference to this case? A. I know he did not because we sat together in the room.

Q. About 4 o'clock we let you go. A. The next day—we stayed here that day.

Q. Where did you go from the court house here? A. Went over to my daughter's at 8 Euclid Ave., Maplewood.

Q. Did your son go with you? A. Yes.

7295 Q. How did you go there? A. On the Lackawanna train after going through the Hudson Tube.

Q. Did you go from here directly to the Tube? A. We did.

Q. How did you go there? A. It seems that we went through——.

Q. Did you walk or take a taxi? A. We walked.

Q. What time did you arrive at your daughter's house? A. I should say it was possibly 7 o'clock.

Q. From the time you left the court house until you arrived at your daughter's house, did either you or your son communicate with or see anybody? A. No, sir.

Q. In connection with this case? A. No, sir.

7296 Q. Did you stay there that night? A. We did.

Q. Did you leave that house at all? A. We certainly did not. We slept in the same room together.

Q. And the next day you came over here? A. Reported here; we came over in the morning and sat around here all day.

Q. That brings you then on the 16th in the afternoon arriving here at the court house, is that right? A. Correct.

Q. From the time you arrived at your daughter's house until you got back here in the court house, did you or your son see or communicate with anybody with reference to this case? A. No, sir.

Q. Did you communicate with anybody at all? A. Yes, sir.

Q. Who? A. I called up Judge Davis—they called for me—I told him——

Q. Who is "they"? A. I think my daughter, I won't be sure, either my daughter or my son-in-law. I didn't know how to ring him.

Q. When was this telephone call? A. This call was about 8 o'clock after we had had supper.

Q. The evening of the 15th, the day you arrived? A. Yes.

Q. Did you yourself talk to Judge Davis? A. I talked with Cousin Marguerite. 7298

Q. What did you say to Cousin Marguerite? A. I told her we were in New York.

Q. That wasn't true, was it? You were in Maplewood? A. We had been to New York.

Q. What else did you say to her? A. She was surprised that we were here and hoped we wouldn't catch cold and said the Judge wasn't home. I asked for the Judge.

Q. Why did you want to speak to the Judge? A. I wanted to tell him I was in New York.

Q. You wanted to tell him you were going to appear before the Grand Jury, didn't you? A. I wanted to tell him I was here and he would naturally know—— 7299

Q. Never mind what he would naturally know. You asked for that call to be put in to Judge Davis and you intended to say something to Judge Davis. What did you intend to say to Judge Davis? A. I intended to tell him I had been subpoenaed before the gentlemen here.

Q. You have answered that question. Before you answered it you made a remark that Judge Davis would naturally know what you were here for. What did you mean by that? How would Judge Davis naturally know what you were here for? A. I had an idea he knew the investigation was going on.

Q. Where did you get that idea? A. I didn't have it in writing, it was just common sense, I thought he would know. I am trying to answer as best I know how.

Q. I hope you are. Then you want to leave it that this idea that you expressed that Judge Davis would naturally know was something you figured out by yourself without any help from anybody else, is that right? A. It would certainly be right, I should think.

Q. Neither you nor your family had received any word from Judge Davis with reference to this case? A. No, sir.

7301 Q. And neither you nor any member of your family had communicated with Judge Davis about this case? A. No, sir. Do you want me to tell you why we did not?

Q. Yes. A. We were afraid it would just bring on more argument and possibly his mail was being checked or something to that effect. That is why I didn't communicate with him.

Q. Why you didn't communicate with him; do you know why any other member of your family did not communicate with him? A. They didn't, I am sure.

Q. But you can't speak for their reasons, is that right? A. Yes, I can speak as far as any—there was no writing between us.

7302 Q. Any telephones between you? A. No.

Q. Any conversations between you and Judge Davis or any member of your family about the investigation? A. No. As I said, I was away at the time the Judge was in Florida, I was in Norfolk trying to sell my oranges.

Q. But your son did have a conversation with Judge Davis? A. My son was in Florida.

Q. Your son drove Judge Davis north? A. That was last year when he went to Bucknell to commencement.

Q. When was Judge Davis in Florida? A. I think it was January.

Q. Why were you afraid Judge Davis's mail was going to be checked? A. That was my own thought and suggestion; I don't know anything about whether it was or was not.

Q. Did you ever hear of anybody's mail being checked? A. No, sir.

Q. Somebody told you it might be checked, didn't they? A. No.

Q. Judge Davis told you that, as a matter of fact? A. He certainly did not.

Q. Did anybody else ever tell you his mail was being checked? A. No. 7304

Q. You figured that out all by yourself? A. I naturally would.

Q. What did you have that you wanted to hide? Why did you care if Judge Davis's mail was checked? A. I didn't have anything to hide, I didn't have anything to correspond with him about.

Q. You told me the reason you didn't communicate with Judge Davis was that you were afraid his mail would be checked. A. I said possibly it would be checked. I had no fear.

Q. You had something to hide? A. I didn't go to see him——

Q. You had something to hide? A. I didn't have nothing to hide. 7305

Q. Then why were afraid? A. Then I wasn't afraid but I didn't do it.

Q. You have got to start telling us the whole truth pretty soon because you are in a very serious situation here unless you do, you understand that? We are not fooling with you, we want to know all these facts truthfully and completely and directly without your trying to avoid answering. A. I am trying to tell them correctly.

Q. You understand the seriousness of this situation, do you not? If you don't tell the truth, you understand it is a very serious matter, don't you? A. I mean to tell you the truth.

Q. Do you understand this is a serious matter if you don't tell us the truth? A. By all means.

Q. With reference to this telephone call to the Judge that your daughter put in for you, where was the call made to? A. I think she called 37 Lawrenceville.

Q. Is that the Judge's number? A. She looked it up; I don't know.

7307 Q. The call was to the Judge's house? A. Yes.

Q. As soon as the number was got, did you take over the phone and start talking? A. Yes, sir.

Q. And did you speak to anybody else? A. No, I spoke to Cousin Marguerite.

Q. Cousin Marguerite is the Judge's wife? A. Yes.

Q. Will you tell us everything you said? A. It was a very short conversation, he wasn't there. I simply reported we were up here.

Q. You told Cousin Marguerite you were coming to see the Judge when you got a chance, didn't you? A. I believe so; I won't swear I did.

7308 Q. Will you swear you did not? A. Then I will have to say I don't remember.

Q. You think you may have said that? A. Possibly.

Q. You asked the Judge to call you, didn't you? A. No, sir.

Q. You asked Cousin Marguerite to tell the Judge to call you, didn't you? A. No, I didn't ask her to tell him to call me.

Q. Did you ask Cousin Marguerite to tell the Judge to communicate with you in any way? A. No, sir.

Q. Did you tell Cousin Marguerite when you would come and see the Judge? A. No, sir.

Q. But you did tell Cousin Marguerite you were coming to see the Judge some time? A. I did.

Q. You appreciate that this telephone call that you are telling us about is completely at variance with your former testimony when you were carefully questioned as to any communication you had with the Judge? You understand that? A. I don't see why it should have been. I have explained it as best I know how.

Q. I might say it has been a very inadequate job. Don't hold back any more things on us because otherwise you will be in very serious trouble. How many times in your life have you seen Morgan Kaufman? A. Twice. 7310

Q. Where were you? A. In the Judge's chambers and had dinner with him at the World's Fair last summer, at the Judge's home.

Q. Did you discuss your land in Florida in any way with Morgan Kaufman when you were up here in the Judge's home at the time of the World's Fair? A. Nothing more than I was behind with my payments and he says he wanted me to get up in my payments according to my agreement, that he didn't want the property.

(Stenographer relieved.)

Q. Have you ever talked to Morgan Kaufman on the telephone? A. I never have. 7311

Q. Have you ever talked to David Kaufman on the telephone? A. I never have; I don't know the gentleman.

Q. Has any member of your family talked to Morgan Kaufman on the telephone? A. No, sir.

Q. Have you attempted to reach him on the telephone? A. I have not.

Q. Have you ever attempted to reach either Morgan Kaufman or David Kaufman on the telephone? A. I have not.

Q. Have you ever attempted to reach Isaac Levy on the telephone? A. I don't know him.

Q. Has any member of your family ever attempted to reach Morgan or David Kaufman on the telephone? A. No, sir, none of them know him I don't believe.

Q. If anybody tried to reach Morgan Kaufman on the telephone it must have been you, is that right? A. I havn't tried to.

Q. If anybody ever tried it connected with your family it was you? A. Absolutely; if anyone ever tried, but no one ever tried.

By Mr. Gahagan:

7313 Q. Any one else in your family know Morgan Kaufman? A. No, sir; they have never seen him.

Q. And they don't know who he is? A. No, sir.

Q. How about your son Willie? A. He only knows I got the loan from Morgan Kaufman according to the agreement that was left home when he came from school to take charge.

By Mr. Willauer:

Q. Where did Morgan Kaufman stay when he was here in New York recently? A. I couldn't tell you that, but it seems to me that all the payments of interest has come to the Ambassador Hotel.

7314 Q. That's where Morgan Kaufman's home is? A. I don't know.

Q. That's where you always wrote him when you went to write him? A. Yes, they were addressed to the Ambassador Hotel.

Q. You have written him several letters to the Ambassador Hotel, haven't you? A. In regards to his payments and so on, I have. I have scribbled some to him myself and part in some other street.

Q. By the way, when you were talking to Cousin Marguerite on the telephone as you just described to us, did Cousin Marguerite tell you where the Judge was that time? A. No, sir.

Q Did you know where the Judge was? A. I did not.

Q. Is that the only time that you attempted to communicate with the Judge by telephone? A. When I got there to the train and they sent down and met me on Saturday morning that I misconstrued it, I thought it was Sunday when it was Saturday, I spent out there with them.

Q. Then there are two occasions from the time you left Florida until this very minute, are there not, on which you attempted to communicate with Judge Davis by telephone? A. That is correct.

Q. And those two occasions, I want to get this straight now, were first on the night of Feb. 15th, the first night you arrived at your daughter's house in Maplewood and that was about 8 o'clock at night, and the second time was from the station in Trenton when you wanted to announce your arrival, that's all, is it? A. Yes. 7316

Q. You understand that by attempting to communicate with the Judge by telephone I mean putting in any telephone call to the Judge anywheres in the world, you understand that, do you not? A. Yes, yes, I do.

Q. And your denials of any attempts besides the two times which I have just named to you includes a denial of any attempts—— A. To communicate with him by phone, yes, sir. 7317

Q. At any place? A. At any place.

Q. Did you make any attempts to communicate with Judge Davis in any other way than by phone from the time of leaving Mt. Dora to come north here to testify until this very minute? A. I did not.

Q. After you finished talking to Cousin Marguerite did you make any telephone calls of any nature? A. No, sir; we went to bed.

Q. Did any member of your daughter's household make any telephone calls of any nature? A. They did not.

Q. Who was in the household that first night? A. T. F. Chalker, my son-in-law, my daughter, three grandsons——

7318 *Grand Jury Testimony of Charles Lee Stokley*

Q. What's your daughter's first name? A. Christine.

Q. And your three grandsons? A. Yes, sir.

Q. What are their names? A. Dumond.

Q. How old is he? A. 17, will be next birthday.

Q. And the next one? A. About 14; Foster.

Q. And the next one? A. Tommy, about 7.

Q. Anybody else in the household besides those people? A. My son Paul.

Q. Any servants? A. No, sir, they haven't any servants.

Q. Did you all go to bed at the same time? A. I don't know; my son and I went to bed at about the same time and

7319 I think, the first, really; I think the rest of the family went to bed about that time.

Juror: Did the rest go before or after you? A. They went to bed after we did I am sure, sir.

By Mr. Gahagan:

Q. Who is we? A. Paul and myself were shown to our room with twin beds.

Q. You stayed in the same room with Paul? A. Yes, sir.

Q. Was there a telephone in your room? A. No, sir.

Q. Was it humanly possible for Paul to make a phone call after you two went upstairs without your knowing it? A. He didn't, I am sure he didn't.

7320 Q. He would have to leave your room where you were? A. Yes and he wanted to get back home, so he could get back home to his business, because he was losing just like I am, losing his shirt.

Q. Your son is down there now? I want to clear it up for the purpose of the gentlemen here. A. Billy is home.

Q. And he's running most of your affairs? A. Yes; Paul is back to his business.

By Mr. Willauer:

Q. I am going to tell you something, Mr. Stokley, the night of February 15th a toll call was made from the residence of your daughter where you were staying to the Am-

bassador Hotel, where Morgan Kaufman and David Kaufman were staying. Who made that telephone call? A. It couldn't have been me from Foster Chalker's, where we were.

Q. It was made from Foster Chalkers. And I want your explanation of that. A. I don't believe there was any call made from there that anyone talked from the Ambassador Hotel.

Q. A call was made. Now tell us why it was made. The records show it.

Mr. Gahagan: Do you deny any calls were made from the house where you were to the Ambassador Hotel? 7322

A. No, sir, I don't deny there was any call made but I don't see the reason for calling.

Mr. Gahagan: You were there, weren't you?

A. Yes, sir.

By Mr. Willauer:

Q. You deny that you made any call, do you, to the Ambassador Hotel? A. I believe that when we were talking with either Chubby or Tina, my son-in-law called and got the number of the Ambassador Hotel and Mr. Kaufman was in Florida they said, he wasn't there; I believe that there was a call to that effect but no one talked. 7323

Q. Now, Mr. Witness, you see just the situation you get yourself into by attempting to lie to us? A. I am not attempting to lie.

Q. You attempted to hide that fact. A. I had forgot there was such a call made and I believe there was, I won't swear to that now.

7324 *By Mr. Gahagan:*

Q. Did you tell anybody to make that call? A. I may have asked them to make a call to see if Kaufman was in the city or if he was at the Ambassador Hotel; there was no one answered the phone.

Q. Was that after you talked to Mrs. Davis or before you talked to Mrs. Davis? A. About the same time I believe, gentlemen.

Q. I want to get this one point and, understand what I am saying, did you tell Mrs. Davis when you talked to her
7325 that you were up in New York or in the vicinity of New York? A. Yes, sir.

Q. There is no doubt in the world in your mind about that? A. No doubt but what we told her we were at Tina's spending the night.

Q. She knew you were in that part of the country? A. Yes, sir.

Q. That isn't something you have forgotten any time since you came to New York? A. No.

Q. You have that in mind all the time you made the phone call to Mrs. Davis that night? A. Yes, or had it made.

Q. And Mrs. Davis knew that you were in this part of the country? A. Yes, sir.

7326 Q. You have never forgotten that fact? A. No, sir.

Q. It's been in your mind constantly, hasn't it? A. Yes.

By Mr. Willauer:

Q. About this phone call to the Ambassador Hotel who put that phone call in? A. I must have had——

Q. Not must have, you know who put it in. A. I had it called.

Q. Whom did you have call it? A. I believe that my son-in-law put that in.

Q. You are sure it was either your son-in-law or your daughter? A. Yes, sir.

Q. And they did it at your request, did they not? A. They certainly did.

Q. No question about that? A. No, sir.

Q. Yet I asked you before repeatedly whether you made any attempt to communicate with Morgan Kaufman and you denied it. Now why did you deny it? A. I didn't get the idea that you meant had I even tried to phone him. I haven't been in touch with him. I tried to at this time; that is, I tried to get the Ambassador Hotel.

Q. You did in other words try to communicate with Morgan Kaufman, you now admit that, do you not? A. It's 7328
possible I would talk to him.

Q. You did try, didn't you, answer yes or no? A. I am bound to have.

Q. You did try, didnt you, answer yes or no? A. Well, yes.

Mr. Gahagan: Did you know that a few minutes ago when you were asked the question that you tried to communicate with Mr. Kaufman? A. I had completely forgot that evening we had even put in a call to the Ambassador Hotel.

Mr. Gahagan: Why did you want to talk to Morgan Kaufman? 7329

A. Just to tell him I was here.

Mr. Willauer: And what did you want to tell him?

A. I haven't told anyone but you of going through that spell of fever; I can't think as I did.

Mr. Gahagan: For that reason we have tried, Mr. Witness, to be as fair with you as we possibly can and any time in the future that you misunderstand a question or are confused to the extent of the question,

will you please ask the examiner or the grand juror who asks the question what it means?

A. I will.

Mr. Gahagan: This was a fact that you tried to communicate with Mr. Kaufman, is that right?

A. Yes, because to call the Ambassador Hotel I would have talked with him if he had been there.

7331 *By Mr. Willauer:*

Q. You recall that I asked you whether from the time you left Mt. Dora until this very minute whether or not you attempted to communicate with anybody in the world with reference to this case with the exception of those two telephone calls to Judge Davis's home and you denied that you had attempted to and it now appears, Mr. Witness, that you did attempt to call Mr. Morgan Kaufman. Now is it not true that you were instructed or requested to call Morgan Kaufman by somebody? A. I was not.

Q. Was it suggested to you by anybody that you should call Morgan Kaufman? A. No, sir, it was not.

7332 Q. Why did you want to call Morgan Kaufman? A. Well, sir, I should have told him of the freeze, that I can't pay the $2,500 that he demands that I pay; he could foreclose on me if he chose right now.

Q. You wanted to call him about this case, didn't you, Mr. Witness? A. I was going to tell him I was here and I wanted to talk to him regards to the freeze.

Q. You wanted to talk to him about this case too, didn't you, Mr. Witness? A. There was nothing——

Q. I am asking you what you wanted to do. Did you or did you not want to talk to Morgan Kaufman about this case? A. The case wasn't up in my mind like the freeze.

Q. Answer me yes or no. A. No, sir, I didn't want to talk to him about the case.

Q. Did you intend to talk to Morgan Kaufman about this case when you put in that telephone call? A. I believe I would have said as little about that as possible.

Q. Did you have any intention to talk about this case to Morgan Kaufman when you put in the telephone call? A. I did not.

By Mr. Gohagan:

Q. Mr. Stokley, now with your fever in mind and any 7334
ailment that you may be under, would you tell us whether or not you can reconstruct the events of that night when you put in these particular telephone calls? A. Please, sir, explain to me——

Q. Do you remember specifically calling Mrs. Davis? A. Yes.

Q. Could you tell us just how that happened? I mean I want to find out. You were sitting down to dinner. When did the idea first come to you that you wanted to call Mrs. Davis? A. After we had gotten through dinner. Nothing had been said in regards to putting in any call or anything and Chubby says, "How you getting along with the pay- 7335
ments?" That's my son-in-law. I said, "Pretty poor. This freeze here; I thought we would clean up 50% of the Kaufman debt," and he said, "Have you written and asked him for more time?" I said "No, I haven't but while I am up here I will see if he will give me more time on it."

Q. Tell us some more about it. A. In regards to calling Judge Davis, the call was put in——

Q. We have now had a long expose—at least you have told us about the freeze—now I want to get to the point where the first time the question of calling Judge Davis comes up. A. Right at the same time while we were there.

Q. How did it come up? A. I asked either my son or wife if they knew how to get any of the family on the phone and how much it would cost.

Q. That was your idea, is that right? A. That's right, and how much it would cost to talk to them.

Q. What did they say? A. 35 cents I believe.

Q. Did you ever pay them that 35 cents? A. No, sir, I haven't but I will.

Q. They haven't asked for it? A. No, sir.

Q. Tell me what happened, who put the call in? A. Either my daughter or my son-in-law, one of the family put it in.

7337

Q. Where is the phone in the house? A. At the foot of the stairway as you come down from upstairs.

Q. Where were you sitting when the phone call was put in? A. In the front room.

Q. Was that within sight of the telephone piece? A. No, I think you had to step out of the room to come to the telephone.

Q. Did you see them, your daughter—who is the person who put the call in again? A. I believe my daughter did.

Q. Either your daughter or your son-in-law? A. Chubby is the one who called up for me to get the right connections for the Ambassador.

7338

Q. It might have been Chubby? Is that Paul? A. No, that's my son-in-law, Foster Chalker.

Q. It might have been Chubby—Foster or your daughter? A. One of them.

Q. It wasn't your son Paul? A. No, sir.

Q. You are definite about that? A. Yes, sir.

Q. Did you say, "Will you please make the call and get Mrs. Davis on the phone for me?" A. Get the Judge's house.

Q. Then what happened, did they leave the room? A. No, they sat right there in the room.

Q. Who made the call? A. Well, they turned the phone over to me.

Q. Before they turned the phone over to you I want to get these details—you have a clear memory of all this, haven't you? A. Yes.

Q. You are laboring now under no disability are you? A. I am trying to answer your questions.

Q. You have a clear remembrance of all this happening? A. Yes, sir.

Q. The telephone was outside you say? A. Yes.

Q. You don't remember which one it was that left the room to make the phone call? A. I can't say.

Q. But one of them did? A. Either my son-in-law or his 7341
wife.

Q. And there is no doubt in the world, is there, in your own mind, that that phone call was made from the home of the Chalkers? A. Yes, sir.

Q. You are clear about that? A. Yes.

Q. You are not pleading any disability as to that, are you? A. No, sir.

Q. Did you hear the phone call being put in, hear them pick up a number and say, "Operator, I'd like to have Lawrenceville"—what did you say the number was? A. 37 Lawrenceville I believe.

Q. Did you hear them do that, put the call in? A. They called—I don't know. 7340

Q. You were just about 15 feet away A. It was in the home; they didn't put in any money.

Q. I understand that; you have to go—before you get anybody on the other end of the wire—you have to go to the operator and ask for your number. A. Yes.

Q. You heard them ask for that number? A. Yes, sir.

Q. Which one did you hear ask for that number? A. Either my son or my daughter, I can't swear which.

Q. You heard them talk to the operator? A. Yes, or I heard them make the call and they says, "You can speak now."

Q. With respect to the charges on the call, did they charge that to their number, did they say anything on it? A. I am quite sure it was charged to their number; they didn't say anything; they didn't tell me that I had to pay it before I talked.

Q. Did they ask how much the toll call cost? A. No, I asked that.

Q. Did they go and ask the operator how much the toll call was? A. No, they did not.

Q. How did they know it was 35 cents? A. That's what
7343 Chubby said it would cost to talk that distance I believe; it would cost 20 cents to talk to the Ambassador Hotel.

Q. They didn't reverse the charges or anything for a small matter of 35 cents, did they? A. No, sir.

Q. You are quite sure about that? A. I am quite sure.

Q. You were within listening distance of the phone, weren't you? A. Yes, sir.

Q. How long did the person talk to the Davises? A. Just a short time.

Q. Did they call you to the phone? A. I did the talking; they says, "You are connected now."

Q. What did you say to Mrs. Davis? A. I really said, "We are in New York. We are at Tina's." I explained my-
7344 self afterwards.

Q. She asked any reason why you were up there? A. No; she said she hoped I wouldn't catch cold; she was surprised I was up there.

Q. That's the first time she knew you were there? A. Yes.

Q. You are not definite about that? A. Yes, I am sure.

Q. In the last weeks or any time that you have been before this grand jury has your mind because of your illness or because of any other reason had a lapse of memory as to that telephone call? You always knew about that telephone call, didn't you? A. Yes, sir.

Q. It s not something like the Kaufman call that you forgot, is it? A. I didn't forget that but when you brought it up to my memory it came to me quick that there was.

Q. This particular call I do not have to bring up to your memory? A. No, sir.

Q. It is something that has been there all the time, is that right? A. I have a knowledge, a memory, of calling.

Q. And you talked to her about how long? A. Very short.

Q. Your purpose was to talk to the Judge, wasn't it? A. Yes.

7346

Q. You didn't accomplish that purpose, did you? A. No, sir, he wasn't home.

Q. Did you try to call any place else to talk to the Judge? A. No, sir.

Q. Did you make any phone calls after you talked to Mrs. Davis? A. No, sir.

Q. When did you try to call the Ambassador Hotel? A. That same evening, either before or afterwards.

Q. You don't remember whether it was before or afterwards? A. I do not.

Q. You are sure it was Morgan Kaufman that you tried to get hold of at the Ambassador Hotel? A. Yes, sir.

7347

Q. When was the next time you tried to get hold of the Judge? A. That's when I went up to Trenton and had him meet me and take my grip.

Q. Didn't you have any conversation with Mrs. Davis about coming down there on Saturday or Sunday? A. You mean when I was talking over this?

Q. That's right, didn't she suggest you come down for lunch or dinner? A. No, sir, I wasn't invited.

Q. You weren't invited? A. No, sir.

Q. You didn't suggest that you should come down? A. No, sir.

Q. What was your purpose in getting hold of the Judge? A. Well, as best I can explain to you, to tell him I was up here.

Q. For what purpose? A. Well, if I lose by staying here I am going to get damage for my fruit drying up that Billy has worried me and I showed you, and the Judge was going to have to defray the expense of the fruit I am going to lose.

Q. Why was that? A. Because I borrowed the money from him and paid 8% interest on it and I have lost all this time and my fruit is drying up I mean.

7349

Q. Why should the Judge pay your expenses? A. It's because of this investigation I am losing this much valuable time.

Q. Your son is down there now? A. Yes, but there is no one on the sales end.

By Mr. Willauer:

Q. You told the Judge he is going to have to pay these expenses? A. He is going to have to pay what I lose on the fruit; I haven't told him so but I demand it.

By Mr. Gahagan:

7350 Q. Do you really think you can get it? A. I really do.

Q. Why? A. He loaned me this money at 8% interest; I borrowed it in good faith.

Q. The Judge loaned you the money? A. Yes. After being brought up here it is no more than fair I be reimbursed for the time I lose here on account of his investigation.

Q. And the thing that really worries you is the big amount of money you owe, isn't it, that's what you have to pay off, that $10,000? A. I will be candid with you, it truly is.

Q. The other thing is inconsequential? A. What is?

Q. Any other debts you may have is not equal to this $10,000? A. There is nothing pushing me only these two big debts.

Q. The principal thing worrying you is this $10,000? A. It truly is.

Q. That's the one you can't pay off. A. I can't pay now the remaining, about $1,300, that I owe Judge on the $4,000.

Q. The one he is going to reimburse you is your loss you say with respect to the whole amount? A. I want to see if it isn't possible; that it isn't my fault that I am here. I haven't approached him demanding it or anything like that. 7352

Mr. Willauer: Mr. Witness, it is your fault you have stayed here so long, and the real reason you had to stay here so long is because you haven't truthfully and directly answered these questions. Now the sooner you get down to business and tell us all the facts and your knowledge about these things and don't try to hide behind technicalities and that sort of stuff, the sooner you will get back to Florida, but you are going to stay here, Mr. Witness, until you have fully answered all questions.

7353

By Mr. Gahagan:

Q. To continue along that line, when did you talk to the Judge and when did he say he would reimburse you for this loss? A. He hasn't said so. That's what you all brought out in my thoughts, why I wanted to talk to him. I didn't want to talk to him anything about the investigation. There is nothing I know about it.

Q. But you wanted to talk to him—continue. A. I wanted to talk to him in regards to my losses in Florida and it is possible he could make some suggestion to Kaufman that he wouldn't foreclose.

Q. Further with reference to reimbursing you for the money you are losing while you are up here, tell us something more about your thoughts along that line? A. Gentlemen, that's the whole thoughts of it.

Q. You feel that Judge Davis will reimburse you? A. No, sir; I don't know that he will, but I feel I am entitled to some help. You gentlemen say it is my fault because I haven't been more thorough in trying to remember and answer questions.

Q. Without going into that, it is. Why should the Judge pay for it? A. Well, maybe he shouldn't, but I feel that I
7355 have worked so hard to pay 8% interest I should have some help.

Q. He is the one who could give you the help on the 8% interest, is that right? A. If he has a mind to; I think he should; he holds the papers.

Q. What is that? A. I say he holds the mortgage.

Q. And all he has to do is give you a little bit of help on this thing and you won't have to pay off, is that right? A. Give me a little help?

Q. I mean he can arrange it so that you don't have to pay. A. I don't think he could. The $1300 that's due, and he could hold off on that anyway.

7356 *By Mr. Willauer:*

Q. As a matter of fact Judge Davis holds that Kaufman mortgage too, doesn't he? A. I don't think he does; I don't know that he does.

Q. You don't know that he doesn't, do you? A. It seems to me that Billy said we had until the 12th of March and Mr. Kaufman demands his payment; if not, the interest up to date or he had the interest now and it's due now.

Q. Judge Davis really holds that $10,000 claim, doesn't he? A. Not that I know anything about.

Q. Have you any reason to believe that he does? A. No, I haven't.

Q. You suspect he does, don't you? A. No, sir, I do not.

By Mr. Gahagan:

Q. You said it, you said he holds the mortgage? A. He does own the $4,000. Let me please explain to you, gentlemen. I made two distinct borrowings. One was $4,000 from Judge Davis. I have paid $2700 of that and the interest to date I believe.

Q. What is the interest on that? A. 8% interest.

Q. As well as the other one? A. Yes. Then the loan 7358
before I got the small debt was $10,000 at 8%, and I have kept the interest up and it is about all I can do. One year I would have paid it all off if we didn't have a freeze at the end of the season.

Q. But the thing you are worried about is that $10,000 mortgage, you are not worried about the Judge foreclosing him self, are you? A. Well, that wouldn't take my home place; that would take my Orange County grove.

Q. You are not worrying about your cousin foreclosing on you, are you? A. Well, it don't seem that he could have the heart to when I have done as well as I have on it.

Q. You have cooperated with him? A. I can get a living off if the Judge foreclosed and I don't lose the home place. 7359

Q. And the thing you are worried about is the $10,000 mortgage? A. It is.

Q. The thing you are worried about is whether Kaufman is going to foreclose? A. Absolutely.

Q. That's the thing you want the Judge to help you with? A. I want Kaufman to help me with on that.

Q. You want the Judge to help you with it? A. If he has any influence with him, I'd hope that too.

Q. You called him to ask him if he wouldn't help ...? A. I called him to tell him about the freeze and about his

own matter of the $4,000; I was going to ask Kaufman had I got him over the phone about the deferred payment.

Mr. Willauer: Mr. Witness, some time Judge Davis told you, didn't he, that if you would come up here and answer the questions so that we wouldn't find out anything he would help you out on that $10,000 mortgage, didn't he? A. I hope I fall dead if there has been any conversation between Judge and I in regards to anything, in regards to my coming up here and helping out.

(Witness excused.)

7361

Appearances: Mr. Gahagan
Mr. Willauer
Mr. Lauritano

CHARLES L. STOKLEY, recalled, testified as follows:

By Mr. Willauer:

Q. Directing your attention to the $10,000 transaction with Morgan S. Kaufman, do you remember that you told us that you came up to Judge Davis's chambers or office in
7362 Trenton, N. J. Now, put your mind back at that time—you just walked into the Judge's office. Will you tell us what happened first when you walked into the Judge's office, whom you saw, and exactly what you did. A. As best I can; I saw Judge Davis first.

Q. Did you have a conversation with Judge Davis? A. I can't say just what——

Q. I asked did you have—— A. (Interrupting) I greeted him. He told me Mr. Kaufman would be there.

Q. Had you ever heard of Mr. Kaufman before? A. Yes, sir.

Q. When he told you Mr. Kaufman was going to be there, did you know what Mr. Kaufman's purpose was going to be

in being there? A. I knew he was trying to get me a loan of $10,000.

Q. By "he" you mean Judge Davis was trying to get you a loan of $10,000? A. Yes, sir.

Q. Did you know whom Judge Davis was trying to get you the loan from? A. He had spoken of Mr. Kaufman being in Miami and that he would see him when he went to Miami from the hotel in Mt. Dora.

Q. So you thought Mr. Kaufman was possibly going to be the person who was going to make you the loan? A. I understood so.

7364

Q. You are back in the Judge's chambers again and the Judge said to you, "We are trying to get Mr. Kaufman over here." Did the Judge do anything about getting Mr. Kaufman over there? A. Mr. Kaufman came in to the best of my recollection.

Q. Did the Judge telephone him? A. I can't say; it wasn't but a few moments before he arrived. I had sent a message I was coming or he told me to come.

Q. You sent the Judge a message you were coming before you arrived? A. That is the best of my recollection.

Q. When Mr. Kaufman arrived, whom were you with when you first saw Mr. Kaufman in the Judge's office? A. With Judge Davis.

7365

Q. Had you ever seen Mr. Kaufman before? A. I had not.

Q. Did Judge Davis introduce you to Mr. Kaufman? A. He did.

Q. Tell me everything that was said by Judge Davis in the presence of you and Mr. Kaufman when you first met there. A. As best I can, he says——

Q. This is Judge Davis? A. Yes; he says, "Whatever Charlie tells you about the property will be correct."

Q. Are those the exact words? A. Very near.

Q. "Whatever Charlie tells you about this property will be correct." Did the Judge say anything else? A. He said, "We can go in the next room and talk it over in that room." Mr. Lord was sitting there. I had taken out a slip of paper I had showing the two tax receipts and what I valued each piece of property. He called Mr. Lord over, to the best of my recollection——

Q. Mr. Kaufman called him over? A. Yes, and he joined in the conversation that I must put in the pet grove. The piece of propert that has been in question, the Malusky Grove, I didn't wa.. to put in and he didn't demand it, but
7367 he made me put in a cement building I didn't want to put in in East Town——

Q. By put in you mean as security for the loan? A. I was only borrowing enough—the $10,000 would clean up the paving lien I owed the city——

Q. Keep on going and tell us what happened. You have got to the point where Mr. Kaufman called Mr. Lord into the discussion. A. That's right.

Q. Go on with the story. A. I showed him what I had. He talked with Mr. Lord about an agreement but he must have the deeds to the property. It seems in Mt. Dora instead of fixing it like I wanted in a mortgage for the security,
7368 he must have the Town deed it to him for the paving liens instead of to me and then I re-mortgage it. He drafted an agreement——

Q. Who is "he"? A. Kaufman and Lord figured on a lease to give me a contract for title and he still hold the property and give me a contract that I could pay it off in $2500 in four payments with 8% interest.

Q. Did they draw up an agreement, Lord and Kaufman? A. Yes, but it wasn't to be final until I paid Lord's expenses to go to Mt. Dora. He wouldn't accept Mr. –Tom Cooley, they wanted a lawyer from the north draw it up.

Q. This is the first you have told us about any discussion about Mr. Lord going to Florida. Will you tell us just

what that discussion was? A. He was to search the title of the property, look up the abstracts, and if they were satisfactory, he was to deliver the money to pay the city for the property, but to pay it for Kaufman, not for Stokley.

Q. Did you make any suggestion that Mr. Cooley could take care of this for you? A. I said there was a lawyer in Florida would be far less expensive to let him transact the business, and he was familiar with the title, with the abstracts, and he wouldn't agree to that.

Q. Mr. Kaufman wouldn't agree? A. No, sir.

Q. What did he say? A. He said he didn't do business 7370
that way, the people in the north were more accurate than we were.

Q. Who suggested that Mr. Lord would go down? A. Mr. Kaufman asked him if he would go down and look it up.

Q. Mr. Lord was the Judge's clerk or something? A. I don't know, I had never seen him before. He was in the library room and, to the best of my recollection, he was looking in a law book when he began talking.

Q. You said they drew up an agreement, but what was that about its not being a final agreement? A. They drew up the agreement and that was the understanding, that I was to pay his expenses.

Q. Pay Mr. Lord's expenses? A. Yes. 7371

Q. You are quite clear on all this you have just told us about what happened? A. As best I can remember.

Q. Have you thought about just what happened in that room at any time since it did happen? Did you ever think that over in your mind? A. I can't say I have studied it over. It seems very clear to me, though.

Q. You have got a good picture of just what happened? A. Yes, as best I know how. I imagine that is about the way of it.

Q. You have talked about what happened with somebody, haven't you? A. Yes, I talked with you.

Q. Anybody else? A. Yes, Mr. Gahagan.

Q. Anybody else? A. I haven't talked it over with Kaufman or Davis, if that is who you mean.

Q. Did any member of your family ever talk it over with Mr. Kaufman or Judge Davis? A. No, sir, I don't believe that any member of my family met Mr. Kaufman.

Q. Will you answer my question. Has any member of your family ever talked it over with either Kaufman or Davis? You recall you answered by saying you didn't believe any member of your family even knew Mr. Kaufman. A. They haven't talked it over with Mr. Kaufman.

7373 Q. How about Judge Davis? A. I don't believe so.

Q. Do you know whether or not they talked it over with Judge Davis? A. No, sir, I do not.

Q. Have you got any suspicions or ideas whether or not they may have talked it over with Judge Davis? A. Now, gentlemen, I am doing the best——

Q. Answer the question. Have you got any suspicions or ideas any member of your family may have talked over with Judge Davis as to what occurred up in Judge Davis's chambers at the time the loan was made? A. No, sir, I have not.

Q. You seem to be a little doubtful; you thought maybe
7374 somebody might have talked it over with Judge Davis. Are you quite sure no one has? A. That is my belief.

Q. You are absolutely positive you did not? A. I have not.

Q. Are you absolutely positive your wife did not? A. No, sir, my wife has not talked it over.

Q. Your answer is yes, you are absolutely positive your wife has not? A. I do.

Q. Answer the question yes or no. Has your wife ever talked this over with Judge Davis? A. Not to my knowledge and I almost know she has not.

Q. How about your son W. K. Stokley? Has he ever talked this over with Judge Davis? A. W. K. Stokley I don't think knows anything about it.

Q. Do you know whether or not he has? A. I don't know.

Q. Then he may have talked it over, is that right? A. I don't know that he has.

Q. Your son you call Billy, Wilmer Stokley, has he ever talked it over with Judge Davis? A. I can't say.

Q. As far as you know, has he ever? A. I can't say that he has, I don't know that he has.

Q. Have you got any reason to believe that he has? 7376
A. Yes, sir, the young man riding with the Judge from home and that being our home place, it is possible they have talked over the interest in the behind payments; I don't know that they have.

Q. Have you ever seen any letter or statement or document telling the story about what happened in the Judge's chambers? A. What do you mean?

Q. You just told us what happened in the Judge's chambers. A. I told you as best I could.

Q. Have you ever seen any piece of paper with a description on it telling what happened, what was said back and forth between you? A. No, sir, I have not. Mr. Gahagan mentioned had I ever seen anything; I have not. 7377

Mr. Gahagan: Have you ever heard of any such paper being prepared?

The Witness: Only what you told me.

Mr. Gahagan: The only question I asked you was whether you had seen any such paper.

The Witness: No, sir, I have not.

Q. We will leave the $10,000—no, I have just one more question. You told us an agreement was drafted and that agreement provided that you could get your property back from Mr. Kaufman if you made four payments of $2500; is

that what you said? A. I believe I have a copy of an agreement and I think that is the agreement, 8% interest was to be paid, not semi-annually as we generally get in Florida, but each year.

Q. That agreement was finally given to you? A. No, sir, I never got hold of the agreement until after they had got the deeds from the town.

Q. When did you first get the agreement, how soon after the deeds were transferred? A. I don't recall how many days before Lord came down; as soon as they examined it and the town delivered them the deeds to the property, they 7379 had a paving lien that was turned over to Lord, I believe, and he in return gave them a check—I never saw the check —and then I received the agreement after I signed my life away, all those different pieces of property.

Q. They handed you the agreement? A. Yes, and I have it up here.

Q. Did you ever record that agreement over there with the Clerk? A. Yes, sir, I put it up with the Clerk of the court so as to get a homestead exemption. My taxes was so high on the parcel of land my home set on, by presenting that agreement, it was the same as a mortgage and I got a homestead exemption on this agreement. (Stenographer 7380 relieved).

By Mr. Willauer:

Q. When did you put that agreement up for homestead exemption? A. I was one year late, I think it was in '37 like, I think I could have made the contract I believe in '36 and in '37 I got homestead exemption.

Q. You never took that agreement then and showed it to anybody for recording purposes until about a year after the loan? A. I don't believe they recorded it then—yes, they must have because Billie had a copy printed from that in the records.

7381

Q. Now we'll leave that $10,000 transaction for a minute. I want to ask you about your dealings with the Eustis Packing Company. Now the record shows that the Eustis Packing Company loaned you quite a lot of money back in 1929, '30, around in there, that is before '35, is that right? A. Yes, sir.

Q. You were indebted then to the Eustis Packing Company, were you? A. Somewheres near $8,000.

Q. The record also shows there was a thing called a fruit contract whereby the Eustis Packing Company got a right to pick your fruit so as to secure them for the repayment of the loan, is that right? A. That's correct.

7382

Q. Under that fruit contract will you tell me just what your understood to be the rights of the Eustis Packing Company? A. After having made a loan to me they had a right to pick my fruit at whatever time they so desired to get the most out of it, that's the way they aimed to do, and they would gather my fruit in the Fall and give me a statement and credit on what I owed them; I never had enough to square them up at each year's picking.

Q. At the same time there was a settlement made with the Eustis Packing Company by that payment of $4,000 that you got from Judge Davis, wasn't there? A. Yes, sir.

7383

Q. Up until that time you hadn't ever paid up everything to Eustis Packing Company, had you? A. I had been behind with them, sir.

Q. Then at the time of that settlement did the Eustis Packing Company still have the right to come and pick your fruit and keep the money to apply on the loan? A. You mean after?

Q. No, let's say the day before the $4,000 was paid. A. Would they have the right to go in and pick it?

Q. Yes. A. To the best of my knowledge I reckon they would until they were satisfied.

Q. That was your understanding then until that $4,000 was paid to clear the thing up the Eustis Packing Company could come and take your fruit from all your property, is that right? A. From all that they were secured on.

Q. That is all that was described in their contract? A. In their contract, yes, sir.

Q. Will you tell me what properties were covered by the Eustis Fruit contract? A. Yes, sir, the Orange County grove and half of the Perry grove. Gentlemen, that would be about nine acres possibly and a two and a half acre block, that covered the Eustis Packing Company contract.

7385 Q. Was the property that you gave to Morgan Kaufman in connection with this $10,000 settlement covered by that contract? A. No, sir, I don't believe it was.

Q. Have you got the contract here? Now when you originally made this contract with the Eustis Packing Company what land did that contract cover? A. It covered what they, the Eustis Packing Company, had in their contract to take the fruit off of certain groves.

Q. I am trying to get at what you understand was as to just which of your properties Eustis Packing Company had that right? A. The Orange County grove and half of the Perry Grove, a five acre grove on the south side of the

7386 town of Mt. Dora.

Q. Did they have the right to take the fruit from the home grove where your house was? A. No, sir.

Q. You are sure of that? A. I am quite sure of that. I will tell you why, that covered the paving lien; they had a lien on all of this part——

Q. Who is they? A. The city; and they had taken the fruit off of the property and didn't leave me anything to pay the taxes or fertilizer or spray it.

Q. Let's get at the time when this contract was originally made before the town started to foreclose; at that time did Eustis Packing Company have a right to take all the fruit

from all your property? A. I don't believe they did; I can't say for sure. I think my contract specifies half of the Perry grove and the Orange County grove.

Q. And you think your contract doesn't specify any more property? A. I don't think so; if it does I am mistaken, but to the best of my knowledge that's all the Eustis Packing Company demanded of me.

Q. Did you ever read your contract? A. Carl is a good friend of mine and I think he explained it to me.

Q. Now I want you to think back before the town foreclosed on your property, back in 1932 and '3, now before all that happened did the Eustis Packing Company have the 7388
right to take the fruit from all your property or did they just take it from the Orange County and half of the Perry, which was it? A. I can't say.

Q. Of course the record will speak for itself, Mr. Stokley, and I will tell you that the original contract that you made did cover pretty nearly all your property. Would that help your recollection? Can you tell me whether it was your understanding that Eustis Packing Company had the right to take the fruit from more than the Orange County grove and half of the Perry grove before the town foreclosed? A. I don't know how to explain it because I don't recall anything more than that. Now the contract with them 7389
may have said so. They gave me money enough to fertilize and spray in all different years, but I was under the understanding that that came from the Orange County grove, that was to go back on that part of the fertilization.

Q. Now, Mr. Stokley, this fruit contract means in plain ordinary everyday English that whatever land was covered by it, all the oranges from that land could be picked by Eustis Packing Company and sold by them, all these oranges, and the money would go to pay your indebtedness, now that's what that contract amounted to. It seems strange to me that you can't remember for sure which of your properties

were covered by that. It is just the same as having a mortgage on your property. Can't you help us some on that? A. I'd gladly do anything that I can but I don't recall that everything was tied up with them.

Q. Do you recall that there was anything tied up with them besides the Orange County grove and half of the Perry? A. That was my knowledge that half of the Perry and the Orange County grove secured the $8,000 that I owed the Eustis Packing Company. If you would go back some years before that, I borrowed $5,000 from them and that covered
7391 all of my groves, but it seems that I paid that off and made a new contract for the Orange County grove and the Perry grove. I may be mistaken on that.

Q. Then sometime in the past there was a contract between you and the Eustis Packing Company giving Eustis Packing Company the right to pick the fruit from all your property, is that right? A. Yes, sir; it seems that I borrowed $5,000 from them way back there but I thought I paid all that off.

Q. So that you think at the time you settled up with Eustis Packing Company the only thing that was covered by a fruit contract was the Orange County grove and half the Perry, is that your understanding? A. That's my under-
7392 standing.

Q. Now I want to talk to you a little about this $4,000 loan from Judge Davis which you used to settle up the Eustis Packing Company's claim. Will you tell me when you first discussed that $4,000 loan with Judge Davis? A. Judge was up at Mt. Dora and I told him if I could get $4,000 that the Eustis Packing Company—the S. A. Girard Company had agreed to accept it in full settlement.

Q. Let me stop you right there, was the S. A. Girard Company the same company as the Eustis Company? A. Yes; Mr. C. C. Conklin bought out the S. A. Girard Company.

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Q. And Mr. C. C. Conklin was the head of the Eustis Packing Company, was he? A. Yes, which was S. A. Girard Co. at one time.

Q. So when you say S. A. Girard Company and Eustis Packing Company it is all the same company, isn't it? A. Later it formed the Eustis Packing Company.

Q. At the time the settlement was made the S. A. Girard and Eustis Packing Company were all the same company, weren't they? A. Mr. Conklin had to send this money back to S. A. Girard Company, I am quite sure, because that wouldn't belong to him since he had bought the business out; it was just the packing house and the equipment.

7394

Q. You discussed with the Judge a $4,000 loan? A. Yes, sir.

Q. Did the Judge agree to give you that loan? A. After going over and talking with Mr. Conklin about an hour in his home in Eustis in regards to the value of the property.

Q. Did you go with the Judge? A. I did.

Q. You were present when the Judge and Mr. Conklin talked about this? A. I sit in the parlor I think with Mrs. Conklin and the Judge taking him off confidentially to find out all about what he thought of the loan.

Q. Did you overhear any of the conversation? A. I heard enough of it that he said I believe Charley will pay every dollar of it off.

7395

Q. Who is he? A. Carl told the Judge that the Orange County grove was worth that, was worth the $4,000.

Q. Mr. Conklin then told the Judge that he thought the Orange County grove was worth the $4,000 and Mr. Conklin also said that you would pay off the $4,000? A. That I'd pay the $4,000 off, that I could do it he said by his throwing off part of the company's owings that I owed them.

Q. You owed the company more than $4,000 and this was a settlement of this loan, wasn't it? A. Yes, sir, it was.

Q. Now after you finished this visit to Mr. Conklin did you take the Judge back to Mt. Dora? A. Yes, sir.

Q. Did the Judge tell you whether or not he would make the loan? A. He said he would see about it.

Q. Did he ever tell you he would make the loan? A. He went to Miami to the best of my recollection within a few days, and I won't say whether he came back to Mt. Dora, but he sent a check and paid the S. A. Girard Company off.

Q. Whom did he send the check to? A. I won't say whether it came to me or to Conklin but if it came over to
7397 me I went over with it forthwith and turned it over to Mr. Conklin; my name wasn't on it.

Q. Whose name was on it? A. It was made to the company that Carl told him that it had to go to in Chicago I believe.

Q. When the loan was paid off did you receive any papers from Mr. Conklin? A. Yes, sir, they turned me over all my own contracts that I turned over to the court and the agreements and so on and certain receipts, maybe on account of what I had paid on it. I turned all that over to you, gentlemen.

Q. What did you give the Judge in return for this loan? Did you give him a note? A. No; he has deeds to this prop-
7398 erty until it is paid.

Q. What property has he got deeds to? A. The Orange County grove and half of the Perry grove and it seems to me one or two lots in Orlando that S. A. Girard Company had security on.

Q. Who drew those deeds up, who wrote them? A. I think Conklin had them drawn up for Judge; I won't be sure but it seems that's the way the chain of it went.

Q. Where were you when you signed those deeds? A. I think they were sent to Judge Davis, sir.

Q. No, a deed you have to sign yourself. A. No, listen, get me now, I think the Eustis Packing Company deeded it to Judge or did I have a mortgage?

Q. Do you remember signing anything in connection with this settlement with the Eustis Packing Company? A. I do. It seems that my wife and myself deeded to Judge and he kept the contract or I have the contract and he has the deed.

Q. What contract do you mean? A. Contract that when I had paid the $4,000, it stated in the contract that I could use the oranges as I so desired just so as I paid the $4,000 back as quick as I could.

Q. This is a contract between you and the Judge, is it? A. Yes, that's the best of my recollection. The mortgage in our state wouldn't allow you to sell the fruit if you didn't get a special right from the one that held the mortgage that you might dispose of it, and I think that's the copy I have that I might dispose of the fruit. 7400

Q. There is some sort of a contract then between you and the Judge? that gives you the right to dispose of this fruit so long as you pay back the $4,000? A. That's right——

Q. To the Judge? A. That's right, that's my understanding.

Q. Under the contract how are you supposed to pay that $4,000 back to the Judge? A. I don't believe it specifies so much each year or month but I must pay it back as early a date as I can.

Q. Who wrote up that contract? A. I can't say. Did Mr. Cooley write it? I beg your pardon, gentlemen. 7401

Q. I don't know, I am asking you, do you recall? A. I don't know who wrote it up.

By Mr. Gahagan:

Q. Have you ever seen the contract, sir? A. Yes, sir.

Q. You remember clearly that you have seen the contract between you and Judge Davis? A. It seems that I have. It is a small document and in that contract the first part of it specified I could sell the fruit it seems to me because once upon a time I wanted to get some money to fertilize the grove

and I went to the bank of Mt. Dora and turned it over to Mr. White and he turned it back to me.

Q. You did have it? A. Yes, I turned it over to the court.

By Mr. Willauer:

Q. That's one of the papers you sent up here? A. I am quite sure, I meant to.

Q. You think you still have a copy of that contract and it is in that bundle of papers you brought up? A. I think it's here in the court, yes, sir.

7403 Q. Have you ever paid back anything to the Judge on the $4,000? A. I think I have.

Q. How much have you paid back? A. To the best of my memory about $2700.

Q. All those payments by check? A. I can't say; I believe so.

Q. Any of them in cash? A. I don't know.

Q. I think you told us this morning that you did know, that none of them was in cash. A. No, sir, I tried to make it as plain as I could that I believed they were paid by check.

Q. Did you ever hand any payment to the Judge when you were face to face with him? A. I don't recall.

Q. Did you ever mail any payments? A. Mail him

7404 money?

Q. Yes. A. I don't know that I have.

Q. Do you know whether you have or not? A. No, sir, I do not.

Q. You say you paid $2700 to the Judge, is that right? A. That was my understanding, sir.

By Mr. Gahagan:

Q. I was out of the room. Did you say that you may have made certain payments in cash? A. Not that I have any recollection of.

Q. Because you distinctly told me this morning that you have no recollection of ever making any cash payments to Judge Davis, didn't you say that? A. I have not; I haven't any recollection of making any.

Q. Or to Kaufman? A. No, sir.

Q. Neither to Kaufman nor to Davis? A. No, sir.

By Mr. Willauer:

Q. Did you ever mail a check to Judge Davis? A. I should certainly think I have.

Q. Did you ever hand Judge Davis a check in person? A. 7406
I am almost sure that I have. I can't say for sure.

Q. Did you ever mail any cash to Judge Davis on account of payments on this $4,000 loan? A. I don't believe so.

Q. Can't you tell us for sure whether or not you did? A. Well, to the best of my memory I wouldn't have. I'd have got some kind of a check for the money.

Q. You wouldn't send any cash through the mail? A. I don't think so.

Q. Have you ever sent any cash through the mail? A. Not to my recollection, none to amount to anything.

Q. Did you ever send any amount of cash over $10 through the mail—over $100 through the mail? A. I don't remember doing so. 7407

Mr. Gahagan: $10, the first question, have you ever sent $10 through the mail, as much as $10? A. During my life I know I have.

Mr. Gahagan: By cash or money order? A. I believe I sent that much in cash.

Mr. Gahagan: Did you ever send any money orders to Judge Davis? A. No, sir; I don't recall of ever sending him money order.

Mr. Willauer: You never preserved any list of these payments? A. I won't say; I think I had a book with all of it in there, all our payments down.

Mr. Gahagan: Is that the ledger you referred to?

A. Yes, sir, a little book.

By Mr. Lauritano:

Q. Mr. Stokley, you remember on Friday we spoke about that ledger? A. Yes, sir.

Q. And you did mention that one of the FBI agents came down to visit you at your home in September of 1939, is that correct? A. That's correct.

Q. Do you remember the man's name? A. He's from Texas and since I have learned his name is Winstead.

7409 Q. Winstead, is that correct? A. Similar to that.

Q. Were you in the house at the time that Winstead visited your house? A. I was.

Q. Will you tell us what he did, when he came down to visit you? A. He said that he had to go through my files to get certain papers and I had been interviewed by Mr. Breese in Norfolk and I knew it was no more than right to turn everything over to him, so he went to the desk and took considerable time, possibly half an hour or more, and looked all through my papers and took what he wanted and to the best of my——

Q. Before you go into what he took, did you give him

7410 permission to take anything from your desk? A. I did.

Q. What did he take from your desk? A. To the best of my memory he took a small book that we had the accounts, the names and the people we sold oranges to on one page and their address and so on, and it had the account of what the fertilizer had cost during the year and the spraying.

Q. Did the book contain any list of any interest payments to either Kaufman or Davis? A. I can't say.

By Mr. Gahagan:

Q. Your son made up that book, didn't he, your son Willie? A. Possibly so.

Q. W. C. A. Possibly so.

Q. Not possibly so, did he or didn't he? A. I don't know.

Q. You heard him say this morning in my room that he did make up that book, did you? Were you there in my room this morning? A. I was trying to listen as best I could.

Q. Didn't you hear W. C. say this morning that he made the entries in that book? A. Yes, you're right.

Q. Didn't W. C. also say that there was no record of interest payments in that book? Do you remember him saying that this morning in my room? A. I believe I do.

7412

Q. Just about three or four hours ago? A. I thought the book had all of our little accounts in it, as a memorandum book as you refer to.

Q. What kind of accounts? A. Express shipments, address of people, and what we got for fruit by express and what we freighted, the cost of spraying material.

By Mr. Lauritano:

Q. Did you see Mr. Winstead take that book from your home? A. I would take oath that he had taken the book and one envelope, envelope about the length of a bank statement.

Q. What was in that envelope? A. I can't say; I thought 7413
it was Kaufman's contract. I found out later I was mistaken. I had one printed so to have one here and when we got up here we had two contracts of Kaufman's.

Q. Did you accompany Mr. Winstead to the door when he left your home? A. I did.

Q. And did you see that book in his hand when he left your home? A. I thought when he walked out the house.

Q. I don't want what you thought. Did you see him take the book? Did he take that book in his hand when he left your home? A. That's my recollection, sir; I didn't care how many books he had taken; I knew he had authority

to. I'd have made him sign for it if there had been any need to.

Q. You say you actually saw him take that one book we spoke about? A. That's my recollection, sir.

By Mr. Gahagan:

Q. Did he give you any receipt? A. No, sir.

Q. You said you would have made him sign for it. A. If I'd have known it was ever going to be brought up I would have.

7415 Q. In all fairness to you we have contacted this particular man Winstead and he said you turned over no papers to him and he took no papers out of your house. A. I turned the whole desk over to him.

Q. He didn't carry the desk out, did he? A. No, sir; he pulled the papers out on the floor and my wife fixed them up after he had gone.

Q. We are now referring to the papers he took or might have taken from your house. Winstead said that you gave him no papers to take and he took no papers. I want to say this in fairness to you. Do you continue to say that you turned over this book to Winstead? A. That's my recollection, sir.

7416 Q. What other papers did you turn over to Winstead? A. Anything he wanted but I didn't think he had taken a thing but one envelope.

Q. Just one second, let's not be general, let's be specific. What was the envelope? A. I don't know; he looked into it.

Q. Now you are going to tell us that a man came into your house, an agent of the government or anything else, and walked out with an envelope and some of your books and you don't know what was in the envelope that he took, is that what you are telling us, I just want to be sure. A. I am trying to tell you he told me he had authority to look

for certain papers and knowing I had been interviewed by Mr. Breese and he mentioned his name, I told——

Q. You are not answering my question. We are going back now to him taking papers out of the house and you told me a second ago that you did not know what was in the envelope. Are you standing by that statement? A. Yes, sir, I am.

Q. How big an envelope was it? A. Looked like a bank statement, about this long, that I think was Morgan Kaufman's contract, sir.

Q. Did you look in the envelope? A. No, sir, I did not, 7418
but I never could find Kaufman's contract after he left that day.

Q. Excepting that you have come across Kaufman's contract again, haven't you? A. After we got up here.

Q. You have come across it here? A. Yes.

Q. It wasn't Kaufman's contract he took then? A. No, I had another printed to have it.

Q. The point is it wasn't Kaufman's contract he took because you came across it; I am not interested in whether you had others printed or not, is that correct? A. That's correct.

Q. Did you look in the envelope he purportedly took? A. I did not. 7419

Q. Why did you think it was Kaufman's contract? A. We looked for Kaufman's contract many times after that and never could find it after the gentleman was there.

Q. Now, since that time you have found it, haven't you? A. Yes, sir, we have.

Q. This particular book, this ledger book, that also you say is missing since the time the gentleman was there, is that right? A. Yes, sir.

Q. And the reason you think he took it is because you say you can't find it now since the day that Mr. Winstead left? A. That's the only reason I have for believing it, sir.

Q. That's the only reason you have for believing that Winstead took the book is because you can't find it there? A. No, because I followed him out to the door and he certainly had taken two things from my file there.

Q. There is no question in your mind about that? A. None in my mind, that's the best of my recollection and there is no need for misconstruing that.

Q. How big a book was this ledger book? A. A foot by six inches wide, cost about 35 cents.

Q. How big was it? A. Possibly three-quarters of an inch thick. I was just as sure you had them here in the files as I could be.

7421

Q. Have you seen it since you have been up here? A. No, sir.

Q. You didn't bring it up with you, did you? A. No.

Q. Did you ever mention that book when you were first before this grand jury? I believe you were asked on a previous occasion what books were kept by you; did you at that time remember that Mr. Winstead supposedly had taken that book from you? A. I don't recall a question of that kind being asked me, sir.

By Jurors:

7422 Q. Did Mr. Winstead open that envelope before he took it? A. I can't say; he must have looked to see that it was what he wanted, the instrument he wanted.

Q. One of your envelopes or one that he brought with him, did you recognize the envelope? A. No, sir; we had possibly fifty envelopes of that kind out there, that would be different, like I showed the gentlemen, deeds and abstracts and so on in an envelope.

Q. Would that book or ledger as you call it have gone in that envelope? A. No, sir.

Q. Was it small enough to go in there? A. No, sir, it was larger; the envelope is about the same size as you gentlemen get from the bank, in my memory.

Q. If Mr. Winstead took it out, took a paper or papers out of that envelope, wouldn't you notice what the papers were? A. He looked at them; he went through so many there I couldn't tell you.

By Mr. Gahagan:

Q. Did Mr. Winstead offer to give you a receipt for the papers he took? A. No, sir.

Q. Or you say he took? A. No; he did not offer me any receipt for them.

Q. Which hand was he carrying these papers in when he 7424
went out the door? A. I couldn't say.

Q. Tell us something about the last time you saw that ledger. Describe something to me about it. A. The last time I saw the ledger was when he was there looking through the files and I sat there in the chair and then he had taken the ledger and the envelope, that is my memory, and [illegible] knows, there is no need for me——

Q. Did you see the ledger when he was at the door leaving? A. Yes, sir, he went out with the book in his hand, I'd almost swear my life on it; that's stamped in my memory that he did.

Q. And you weren't interested in getting a receipt? A. I didn't know I had to get a receipt from the government. 7425

Q. Did you know what was in the envelope? A. No.

Q. You don't know? A. No, sir.

Q. It might have been anything in there? A. I fully believe it was Kaufman's contract.

Q. Now you know it wasn't Kaufman's contract? A. Yes.

Q. You know it couldn't possibly have been Kaufman's contract because that you found subsequently, so it must have been something else. Was your memory the same way as to this book as it was as to Kaufman's contract? A. Is my memory?

Q. Are you as definite that he took Kaufman's contract as you are the fact that he took the ledger book? A. Bound to be. I was almost confident that he had the Kaufman contract and I fully believe I saw him with the book.

Q. Your memory is of the same caliber as to the Kaufman contract as it was as to the book? A. I see that I was mistaken on the contract and I fully believe that he had taken the small book. I don't want to misrepresent anything but that's my belief, my honest belief.

Juror: How long after he went there did you miss
7427 the book?

A. He was there, gentlemen, part of the afternoon, whatever time he had taken to go through a desk that would be about the size of that one with a top to it that we kept other papers stacked up in it, bills of lading and so on, and the gentleman went through all that he cared to look in for what he wanted.

Juror: Was this the same day that you had the conversation in the automobile?

A. No, sir; this was in September and the conversation in the automobile was some weeks ago.

7428 *By Mr. Gahagan:*

Q. Have you any reason to want or desire that that book should not show up? A. No, sir, I'd be as proud as I was of that old check that I cashed.

Q. You would like to have that book show up, is that right? A. I certainly would.

Q. What is your fiscal year, in other words, how do you figure your year, do you figure it from the usual January 1st or from another month? A. Gentlemen, we count our fruit year from the time we commence moving fruit, say the first week in November that it ripens until the last of May. It takes in a portion of two years.

Q. What would be your expenses from 1937, say September 1st, to September 1st, 1938? General expenses, gross, within a thousand or two thousand dollars; all your living expenses and on your farm, give us an approximate figure. A. Costs us about half of what we get out of the stuff to——

Q. I don't want a comparative figure, I want a substantial figure of money. A. I couldn't give it to you from my mind if I was going to be hung. I wish I could.

Q. I believe you said at one time to these gentlemen that you grossed about five or six thousand dollars, or six or seven thousand dollars a year, is that correct? A. On fruit, that's 7430
what I meant to made a statement.

Q. Have you any substantial income outside of that, outside of fruit and vegetables? A. Now we have something when we have any kind of good luck on English peas, we'd generally make five or six hundred dollars on the peas.

Q. Do you have any income in excess of five or six thousand dollars outside of your fruit? A. Some years we do; we did sell one crop of fruit way back there that we got $14,000 for.

Q. That's fruit? A. Yes, sir.

Q. I say outside of the fruit, all your other investments, do they return anything to you in excess of a thousand dollars in other past years? A. It don't seem to me so. 7431

Q. Would you be sure about $2,000? A. That would be the dark ranch and what I get out of the vegetables and what I get out of the little milk we have and what I sell potatoes for.

Q. That's right. A. Let's see, we have other income, have we? It don't seem to me that it would be.

Q. As I recall the question that I think one of the gentlemen in the first row asked you is what was your gross income for certain years and if we ask you that question again say for 1937 and for 1938 and 1939, what would you say now, have you any idea, including all these? A. Just allow me to make this, the years we have a freeze——

Q. No, I am sorry, I don't want an explanation; I want your best estimate as to your gross income for the year 1937. A. I wouldn't think it would be, everything, more than eight or ten thousand dollars.

Q. Now for the year 1938? A. One of those years we got more for fruit than we did others because we had a freeze that damaged it.

Q. For the year 1938, your best estimate. A. I believe '38 is the year we had the freeze and it would run far less than '37.

7433 Q. In other words, your gross income would be less than '37, $10,000? A. Yes; now we may have gotten a little more out of the vegetables one year than we did the other year.

Q. In any event would you say your gross income exceeded $10,000 in any one year? A. I shouldn't say it did, sir.

Q. Would you say it was as much as $10,000? A. Offhand I would not. I know Billy has made a big showing there but I don't think he's correct.

Q. I don't know what you are referring to now but leaving that aside for the moment, are you able to pay your expenses on the properties with the exception of your interest payments on the $10,000 and on the $4,000 and payments
7434 of principal on that, are you able to make ends meet? In other words is your gross income equal to your total expenses? A. Now please let me tell you this, if we hadn't had a freeze this year with the price we were getting for fruit we would have paid off Morgan Kaufman.

Q. I understand that. Now we'll go back to my question, which is for the period September 1st, 1937 to September 1st, 1938, leaving aside for the moment any loans that you made, interest, you see, let those go, does your gross income equal your gross expenditures for that period? In other words, were you in the red for that period? A. I don't believe we were; it's hard to work, it seems to be bound that we were a little ahead.

Q. I am not now considering interest payments. What are you hesitating about? A. I believe we would have been just a little ahead that year even with the freeze in the spring.

Juror: Now you must know what your annual expenses are because they are fairly uniform.

A. No, sir, I don't know what the actual gross income is.

Juror: No, expenses, the costs, money spent for the upkeep of the place, fertilizer and so on.

A. We put down spraying and pruning and fertilizing; it 7436
amounts to just about half the cost of getting out the oranges. If we get 60 cents a box for the oranges we'd be just a little ahead and they never get cheaper than that as a general thing.

By Mr. Gahagan:

Q. I show you Grand Jury Ex. 41 which purports to be a certain schedule having a total of $19,828.38 and says at the top expenses 9/1/37 to 9/1/38; have you ever seen that before, Mr. Stokley? A. Yes, this is what Billy wanted to bring to you, gentlemen, as best he could and as best he can make it out. 7437

Q. When did he want to bring it to you gentlemen? A. He told me when he got here, and present it to you the best he can as to what the gross income was.

Q. Did Billy-boy—did W. C. Stokley, the boy who is outside, tell you he prepared that for our purposes? A. Yes, sir, I understood so.

Q. Does he tell you that, Mr. Stokley? You understood—I want to know what you meant by you understand. Did your son tell you he prepared that paper for our purposes, for the purpose of this examination, for the purpose of coming up here to New York? A. I don't know what else he prepared it for if it wasn't that.

7438 *Grand Jury Testimony of Charles Lee Stokley*

Q. Have you ever seen it before? A. Yes, sir.

Q. When? A. When we were in your office this morning.

Q. Before you were in my office this morning, had you ever seen it before? A. No, sir; he gave it direct to you, was my understanding.

Q. You are positive that you had never seen that before? A. He brought this up with him and I can't say that I saw it before he turned it over to you.

Q. Do you see that total? A. Yes.

Q. Let's read the items, packing fruit. A. That's at the packing house, the charges for putting it up.

7439 Q. That's for a year period? A. That would mean for a year I'd say.

Q. 5600-odd dollars. Picking fruit $800, that's picking the fruit for that period? A. Yes.

Q. Freight other than truck $2080 GMC truck. Does that mean freighting? A. No, that means that we paid $3868 for a new GMC truck.

Q. Part of the expenses for that year? A. We were paying on it in payments, that's what was bought that year if I understand right.

Q. Pickup truck $523.75. A. If I understand that, that was a difference between an old one and a $700 truck or $750.

7440 Q. Now the other items, without going in, are insurance? A. Feed for the mules.

Q. Feed, fertilizer, repairs to Negro home, Negro labor, storage at Norfolk, taxes, in the amount of $361.21. A. Taxes are far more than that.

Q. That's not complete then on your expenses? A. No, because the taxes amount to 800 and some dollars.

Q. Household and living and what does that, say, inc. is that De Soto, an automobile? A. Yes, household and living and I think he put that there for De Soto.

Q. That's $1055? A. Yes.

Q. Vacation $120; whose is that? A. He and mother had taken a trip and came up to Virginia to see Paul and drove up over in the mountain country and stayed a few days.

Q. If your gross income, assuming what you say, is that the full taxes aren't here and there is no item on here for interest payments, are there? A. No, sir.

Q. And there is no item on here for payment of principal on loans, is there? A. No, sir.

Q. We have a total expenditure here of $19,828.38, now was your income for the year the same, in other words at least equal to $19,000? A. I can't see where it could have been. Don't misconstrue that. 7442

Q. I am not misconstruing anything, just one second, please. Do you remember these expenses, do you recall having spent this money? A. No, sir, I do not, not to that amount I do not.

Q. You do not remember these particular expenses? A. All those are correct.

Q. They are all correct amounts? A. I mean the GMC, those different items.

Q. What were you going to say about the GMC? A. GMC truck, that is what it would have cost but we had carrying charges and paid on it until we had it paid for.

Q. Let's eliminate the truck entirely, that's about $4,000, that brings it down to a total expenditure of $15,000; are there any other eliminations or explanations you would like to have made there? For example this fertilizer from 3/1/37 to 9/1/38, that was fertilizer used in that year? A. Yes, for putting on the groves; I don't see where he has spraying and dusting on there and the pruning. 7443

Q. That's items left off this sheet, that right? A. Yes, sir.

Q. This picking item, picking fruit, $5679. A. That's packing it at the packing house; we are going to send you those receipts.

Q. Packing fruit, was that for one year's packing? A. The complete year like I explained there, November to Spring months.

Q. This September, to September takes in November and the Spring months, doesn't it? A. Yes, sir.

Q. We have packing fruit, would that be for one year, item $5,000, or was packing as much as that every year? A. Yes, they charged us 65 cents a box and each load would be 250 boxes.

Q. Picking fruit $800; is that an exorbitant amount? Is that more or less than what you would have to pay to pick
7445 fruit? A. We pay seven cents a box.

Q. Gross over the year, do you know whether you pay about $800 a year to pick fruit or not? A. Anyway that much.

Q. You have filed no income tax return, have you? A. I don't believe so.

Q. In this year, from 9/1/37 to 9/1/38, you have here eliminating the truck an item of $4,000, you have $15,000 worth of gross expenses, is that right? A. I understand the way he has it there, yes.

Q. And in addition to that you have interest payments and additional taxes, is that correct? A. Yes, there's more
7446 taxes than there is there; they haven't been paid but there is more there.

Q. Then you had spraying as well that isn't listed on here. A. And pruning.

Q. Your gross income for this time was certainly equal to these expenses taking out that truck item, certainly equal to $15,000, wasn't it? What do they charge for packing? A. 65 cents a box.

Juror: How much did you sell your boxes for in that year? A. We get about $2 a box for that, and the freight hauling them up there is 65 cents more.

Juror: Do you pay the freight or do they pay the freight? A. We have to pay the freight.

(Stenographer relieved)

Q. Don't you charge Judge Davis $2.50 a box? A. That is only express shipments; we are speaking of wholesale fruit to the market. We sold it as low as $1.50 this year delivered to Norfolk.

Q. What is your gross? (No answer)

By the Jurors:

7448

Q. How many boxes do you use in a year? A. To pack them in?

Q. Yes. A. It depends, the crop varies. Some years we have as many as 5,000 boxes.

Q. What do you pay for a box? A. The box has cost about 22 cents and now they pushed it up to, I think, 27.

Q. Do you pack any yourself? A. No, there is an organization, we haul them to the packing house and they charge us 65 cents to put them up.

Q. When you sell fruit, it does not go to the packing house? A. Yes, but express lots, small lots.

By Mr. Gahagan:

7449

Q. If it cost 65 cents to pack each box and you paid $5,679 to pack your fruit and you sold each box, you must have grossed, grossing it, $2 a box, you must have got somewhere in the neighborhood of $15,000? A. After taking out the 65 cents and the five cents Govt. tax to get it over the State line——

Q. I am talking about your gross. When I said income before and you gave me a figure of $10,000, did you think I meant net income after expenses were deducted? A. I thought you meant that was what the fruit sold for, $10,000.

Q. When you are talking about the $10,000 figure, you didn't mean that you netted—in other words, that you have an income upon which you should pay a tax of $10,000, did you? A. No, we had had our debts paid off and the taxes up to date——.

Q. Will you direct yourself to answering the questions? When you mentioned the figure of $10,000, was that a net income figure upon which you were subject to pay income tax? A. No, because I had had to take out expenses.

Q. In other words, it was a figure that had all the expenses included in it? A. Yes, for those years. Some years
7451 was better; $14,000 one year it brought.

Q. I think the simple answer to the whole thing is that——

Juror (Interrupting): When you give a figure of, say, $7,000 for one year, how would you arrive at that figure? Would you take off packing charges before you thought of that figure?

The Witness: Yes, but not the freight.

Juror: You don't pay the freight anyway, do you? Don't you charge it to the customer?

The Witness: No, sir, we have to pay the freight.

Q. Mr. Stokley, I understood that you said you signed
7452 your life away at one time, I quote from your testimony. A. That is a southern way of expressing it. I meant to put in all of my property to get this loan rather than let the paving lien take it.

Q. What are you referring to when you say you signed your life away? A. To put in the best and pretty near all the property I had.

Q. Are you referring to the $10,000 mortgage? A. Yes, sir.

Q. Were you interested in getting this mortgage paid off? A. I certainly am.

Q. Is that vital to you? A. By all means.

Q. And are you also interested in getting the $4,000 paid off to Judge Davis? A. I certainly am.

Q. Would you say that that is your most pressing problem? A. Unless I absolutely break down like I told you; if the freeze ruins me and I can't get anything this year, we have got nothing for bread and butter.

Q. You are interested though in getting this $10,000 paid off? A. I certainly am.

Q. That is the biggest obligation you ever had, or is it? A. It is the biggest obligation I have had with that big interest.

Q. You are interested now—you feel your whole life is 7454
signed away in this particular deal, isn't that true? A. I feel that way, yes.

Q. Did you make any payments on account of principal to Judge Davis? A. I am bound to have.

Q. Did you or didn't you? A. I did.

Q. Did you make any payments of interest to Judge Davis on the $4,000 loan? A. He applied it as he thought best. I don't believe I designated only to pay the $4,000 off. Whether it went for interest and on the principal——

Q. Referring to the Kaufman loan, the $10,000, did you make any payments of principal on that loan? A. I don't believe so.

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Q. Is that your best recollection? A. Yes, sir.

Q. Did you make any payments of interest on that loan? A. We have made some payments.

Q. Have you any records of the amount of payments you have made on either the Davis loan or the Kaufman loan yourself? A. I don't know that I have any record. I am trusting it absolutely to them.

Q. You don't keep any record yourself when you send them a check or send them fruit, is that correct? A. I really don't, dollar for dollar.

Q. Do you within $100? Within $500? A. I can't say that I do.

Q. In all the time you have been here in New York testifying, have you ever been in touch with Morgan Kaufman? A. I have not.

Q. You have never talked to him on the phone? A. Not one minute. I called but didn't get him.

Q. Any member of your family call him on the phone for you? A. No, sir.

Q. Did Willie talk to him? A. No, sir, he never met him.

Q. You told us you talked to Judge Davis once when you went there Saturday and stayed Sunday. Have you talked
7457 to Judge Davis since that time? A. No.

Q. Have you called him on the phone since? A. No.

Q. Has he called you since that time? A. No, sir. All the calls was made from my daughter's and that was the two calls and she paid the charges and I will turn the records over to the court.

Q. What were the two calls? A. One was to Kaufman and we didn't get him and one was to Judge Davis and we got Mrs. Davis.

Q. Outside of that you made no attempt to communicate with Judge Davis? A. Only when I was up there with them.

Q. Outside of those two times and the time you were
7458 there Saturday and Sunday? A. That's right.

Q. You stated there were deeds given to Judge Davis? A. From the packing company?

Q. I don't know. A. To the best of my recollection, the Judge had them pay off the contract—had deeds drawn and Mam and I signed them, to get a half interest in the Perry Grove, the Orange County Grove and the two Orlando lots.

Q. The form of the transaction, meaning the papers that were drawn up and executed—were they in the same form as the Kaufman transaction? A. It would be from the Judge to me, the contract for the $1,000.

Q. How about the deeds giving the property over? It would be from you to him, the ones you and Mama signed? A. Yes, my wife and I signed it over to Judge Davis.

Q. That is the same type of form you used with respect to Morgan Kaufman? A. No, sir, the Judge has a deed to the property.

Q. Which property? A. The Orange County Grove and half of the Perry Grove and the two lots in Orlando for his $4,000.

Q. He has a deed to the Orange County Grove? A. That is my recollection.

Q. What has Kaufman got a deed to? A. He has a deed 7460
from the city, the Town of Mt. Dora.

Q. Doesn't that also cover the Orange County Grove? A. No, sir, it covers the property in Mt. Dora, that was in the County of Lake, and was to pay off the paving lien.

(Witness excused)

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7462 **Agreement as to Contents of Record**

Pursuant to agreement of counsel, approved by the Master (R. 1824-5), the entire record in this Court in "*Root Refining Company*, Defendant-Appellant, v. *Universal Oil Products Company*, Plaintiff-Appellee" including all briefs was deemed to be a part of the record herein without the necessity of physically reproducing the same.

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